

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



October 8, 2004

TO ALL CONCERNED:

At the September 8, 2004 meeting, the draft minutes of the June 9, 2004 Commission meeting were approved as written. Please attach this notice to your copy of the June 9, 2004 minutes.

- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION**

September 8, 2004
#2004-03

The meeting was held at the Penn Wells Hotel, Wellsboro, Pa. Chairman Kendl Philbrick called the meeting to order at 1:00 p.m.

ROLL CALL

Commissioners Present

Mr. Kendl P. Philbrick, Secretary, Md. Dept. of the Environment
Brig. Gen. Merdith W. B. Temple, Commander, N. Atl. Division, U.S. Army Corps of Engineers
Mr. Kenneth P. Lynch, Director, Region 7, N.Y. Dept. of Environmental Conservation (NYDEC)

Ms. Cathleen Curran Myers, Dep. Secretary for Water Mgmt., Pa. Dept. of Environmental Protection (PADEP)

**Alternate Commissioners
and Advisors Present**

Dr. Robert M. Summers, Dir. Water Management Administration, Md. Dept. of the Environment
Col. Robert J. Davis, Jr., District Engineer, U.S. Army Corps of Engineers, Baltimore District
Col. Francis X. Kosich, Dep. Commander, N. Atl. Division, U.S. Army Corps of Engineers
Mr. Wesley E. Coleman, Chief, Civil Project Development Branch, U.S. Army Corps of Engineers, Baltimore District
Mr. William A. Gast, Chief, Division of Water Use Planning, PADEP

Staff Present

Mr. Paul O. Swartz, Executive Director
Mr. Thomas W. Beauduy, Deputy Director
Mr. David W. Heicher, Chief, Watershed Assessment & Protection Division
Mr. Michael G. Brownell, Chief, Water Resources Management Division

Mr. Duane A. Friends, Chief Admin. Officer
Mr. Richard A. Cairo, Counsel/Secretary
Ms. Deborah J. Dickey, Executive Administrator

Ms. Susan S. Obleski, Director of Communications

INTRODUCTION/WELCOME

Following a welcome to Wellsboro and Tioga County from Ms. Mary Wellington, Executive Director of the Wellsboro Chamber of Commerce, Chairman Kendl Philbrick introduced the members of the Commission and the Executive Director.

PRESENTATIONS

1. Map Package Presentation

Pennsylvania Commissioner Cathy Myers presented GIS map packages to the Tioga County Concerned Citizens Committee, the Cowanesque Valley Watershed Association and the Bradford County Conservation District.

SRBC Director of Communications Susan Obleski explained that these maps, which the Commission prepared with funding provided by a Pennsylvania Department of Environmental Protection (PADEP) Growing Greener Grant, will assist these watershed organizations in their outreach and education efforts and other water resource stewardship activities. The packages consist of hard copy maps and a CD with mapping that allows data manipulation. The Commission has selected 44 groups in all six major subbasins of the Susquehanna River Basin to receive the packages.

2. Maurice K. Goddard Award

Chairman Philbrick presented the SRBC Maurice K. Goddard Award to Mr. Leroy Young of the Pennsylvania Fish and Boat Commission. The Commission periodically presents this award to professionals who demonstrate excellence in the field of water management. Mr. Young has been of invaluable assistance to the Commission on project review activities, instream flow studies, and a host of other water management related matters.

3. Hydrologic Conditions Report

Mr. Michael Brownell, Chief of the Water Resources Management Division, reported that all hydrologic indicators such as precipitation, streamflow and groundwater levels remained at or above normal in all six subbasins. Over the last 11 months, double digit precipitation surpluses have accumulated in the northwest and southern portions of the basin. At all locations for the month of August 2004, streamflows were more than two times above normal.

Several intense storms produced flooding in a number of locations and there were the usual reports of persons attempting to drive across flooded roadways, often with disastrous results. Half of all national flood fatalities are attributable to this practice. Motorists are urged to turn around if they encounter a "low water crossing."

4. Groundwater Management Plan Discussion

Mr. Brownell explained that the staff conducted meetings in Harrisburg, Pa., State College, Pa., and Owego, N.Y., on the proposed Groundwater Management Plan. He wanted to highlight some of those comments and seek the Commission's guidance on how to respond to them.

Comment 1: Does the plan achieve a balance between protecting groundwater resources and allowing for their reasonable use, thereby fostering economic development?

Commission Response: Commissioner Myers noted that the plan generally does achieve this balance, but that it needs to make sure that the issue of economic development is fully addressed in the final report. The Rendell Administration strongly supports the idea that economic development and environmental quality go hand-in-hand. Sustainable development is the administration's goal, as demonstrated in such efforts as brownfields and the reuse of mine lands and mine water.

Comment 2: Does the plan lack specifics?

Commission Response: Commissioner Temple said that the plan is broad based and is not meant to be an implementation document. Specificity will be added over time as required. Nevertheless, with respect to the groundwater stressed areas of the basin, further information is needed to clarify the definition, significance and location of these areas and recommend actions to alleviate the problems. Where possible, the geographical location of groundwater problems, such as AMD impacts, should be discussed to emphasize the needs specific to the Susquehanna Basin.

Comment 3: Does the plan adequately set priorities for near-term and long-term implementation?

Commission Response: Chairman Philbrick felt that the plan does set priorities and an implementation schedule for all 37 recommended actions. Nine of the recommendations are described as top priority and are therefore classified as "continuing" or "short-term" scheduling actions. However, in keeping with comments received at the workshop sessions, the top priority list should be reviewed and revised with a view toward early implementation of more actions. Also, support and funding for long-term commitments need to be emphasized in the plan.

Comment 4: Does the plan focus enough on groundwater quality?

Commission Response: Commissioner Lynch indicated that water quantity, rather than water quality, is the main focus of SRBC's water management mission and that water quantity should remain the main focus of the plan. However, SRBC does coordinate and work with its member jurisdictions on a number of important water quality programs that address particular problems in the basin. This information should be included in the plan.

Comment 5: Does the plan achieve a reasonable balance of the resources that should be devoted to water management, regulation, planning, and public outreach/education?

Response: Commissioner Myers replied that all three elements are needed and the plan does address them all in a balanced way. Of the 37 recommendations, 14 are regulatory in nature, 11 are related to planning, and 12 involve outreach. The plan should be folded into the water resources planning efforts that Pennsylvania and Maryland have initiated.

Mr. Brownell thanked the commissioners for their input and indicated that, prior to adoption of the plan next year, staff will make revisions that incorporate the comments received on the plan.

Commissioners' Comments

Commissioner Myers added a few comments about the beauty of the Wellsboro area and the Route 6 corridor across northern Pennsylvania's Allegheny Plateau. Pennsylvania wants to make this corridor a shining example of what the state has to offer, but to do so will require a clean up of the abandoned mine drainage pollution that spoils so many of the West Branch's tributaries. That is why Pennsylvania is targeting the West Branch for a major water quality effort.

Commissioner Temple noted that Deputy North Atlantic Commander Colonel Frank Kosich is a Pennsylvania native. He went on to suggest that the Commission's current *Comprehensive Plan for Management and Development of the Water Resources of the Basin* dating to 1987 be revised to reflect the water resources planning efforts being undertaken by the Commission's member jurisdictions. Also, the latest modeling and graphics technology could be used to improve the plan.

Commissioner Temple added that the North Atlantic Division oversees waterways stretching from Maine to the Virginia-North Carolina border. He said that his office would be happy to act as a bridge between the Commission and any of the federal agencies in this region that deal with water resources. He also offered the services of the Corps as a liaison between the SRBC and Chesapeake Bay interests.

ACTION ITEMS

1. Minutes of the June 9, 2004 Commission Meeting

On a motion by Commissioner Lynch, seconded by Chairman Philbrick, the minutes of the regular business meeting of June 9, 2004 were unanimously adopted as written.

2. Expenditure for New Computer System and Management Information System (MIS)

The Chief Administrative Officer requested that the Commission approve an expenditure of \$250,000 for a new computer system and the development of a Management Information

System (MIS) that will greatly improve the Commission's data management capabilities and improve compatibility with member jurisdiction systems. The proposal was developed with the assistance of an outside consultant. It would involve the expenditure of \$160,000 from the Commission's general fund and \$90,000 from funds appropriated by Pennsylvania for SRBC participation in Act 220 Water Resources Planning implementation.

On a motion by Commissioner Myers, seconded by Commissioner Temple, the Commission unanimously approved the requested expenditure.

The Executive Director thanked the Commissioners on behalf of the staff. These improvements will greatly assist the Commission in its water management efforts. Meetings will be scheduled with representatives of the member jurisdictions to ensure that the SRBC system is compatible with their systems.

3. Contract Approvals

Watershed Assessment and Monitoring Division Chief David Heicher requested the following actions:

- a. Commission ratification of the execution of a contract with Moody and Associates, Inc. in the amount of \$45,000, to perform studies and investigations related to aquifer storage and recovery systems (ASR) in connection with SRBC's grant from PADEP to perform an agricultural consumptive use study.
- b. Commission authorization to execute a contract with Gannett Fleming, Inc., not to exceed \$45,000, to perform economic analyses also in connection with the agricultural consumptive use study.
- c. Commission authorization to execute a Memorandum of Understanding (MOU) with PADEP in connection with an appropriation from the Commonwealth of Pennsylvania to assist PADEP in the implementation of the Act 220 Water Resources Planning legislation.

On a motion by Commissioner Temple, seconded by Commissioner Lynch, the Commission unanimously approved the actions requested by staff.

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

The dockets recommended for action included the following 14 projects as described by Mr. Brownell plus one additional project – Ephrata Area Joint Authority Well 4 – which is described in a separate section below:¹

- Village of West Winfield (Exhibit A1)
- Village of Cohocton (Exhibit A2)
- World Kitchen, Inc.–Pressware Plant (Exhibit A3)
- Northampton Fuel Supply Co.–Prospect Bank Operation (Exhibit A4)
- Northampton Fuel Supply Co.–Loomis Bank Operation (Exhibit A5)
- Eagle Rock Resort Co. (Exhibit A6)
- Eastern Industries, Inc.–Lewisburg Quarry (Exhibit A7)
- Hanson Aggregates Pa. Inc.–Oak Hall Quarry (Exhibit A8)
- Pennsy Supply, Inc.–Millard Quarry (Exhibit A9)
- Pennsy Supply, Inc.–Penn Township Quarry (Exhibit A10)
- Dart Container Corp., Wells 4, 5, 9, 11, 12, 13, 14 (Exhibit A11)
- Dart Container Corp. Well 15 (Exhibit A12)
- Knouse Foods Cooperative, Inc.–Peach Glen Plant (Exhibit A13)
- City of Aberdeen–Aberdeen Proving Ground (Exhibit A14)

With respect to the Eagle Rock Resort docket, there were two notable changes. First, the release requirements included in the original docket approval of October 10, 2002 were revised to better reflect local conditions.

Second, the docket was originally issued in the name of a non-existent entity–Eagle Rock Ski and Golf Resort. To correct this error, the staff recommended re-issuance of the docket in the name of Eagle Rock Resort Co., the owner of the project facilities.

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

There had been a request to transfer the docket approval to Eagle Rock Community Association, Inc.; however, SRBC Regulation 803.31 seems only to allow transfers to new owners of projects. Staff does not possess enough information about Eagle Rock Community Association, Inc. to determine whether it qualifies for a transfer of an approval under Section 803.31.

On a motion by Commissioner Lynch, seconded by Commissioner Temple, the Commission approved the staff recommendations for all the dockets presented. Commissioner Myers abstained from the approvals for the two projects sponsored by Northampton Fuel Supply Co., citing a past attorney-client relationship.

b. Docket Rescission

Mr. Brownell explained that Rutgers Organics Corporation had requested rescission of its docket approval for consumptive water use of up to 100,000 gallons per day (gpd) for the manufacture of chemical products. Rutgers Organics Corporation is located in College Township, Centre County, Pennsylvania. On a motion by Commissioner Myers, seconded by Commissioner Temple, the Commission unanimously rescinded this approval.

c. Ephrata Area Joint Authority–Application for Well 4; Request for Adjudicatory Hearing by Borough of Akron

Mr. Brownell noted that by letter dated August 25, 2004 (Exhibit B), the Commission had received a request for an adjudicatory hearing from the Borough of Akron (Akron), Lancaster County, Pennsylvania, concerning the application of the Ephrata Area Joint Authority (EAJA) for approval of a groundwater withdrawal of 1.08 million gallons per day (mgd) from Well 4 for public water supply. Staff asked Akron Borough to substantiate its request and the Borough responded with a letter of September 2, 2004, citing its consultant's letter of June 13, 2004 (Exhibit C) to the Borough Manager Daniel Guers. In that letter Mr. Jeffrey L. Bologna of ARRO Consulting, Inc. had listed a number of comments and criticisms concerning pumping test procedures and conditions for Well 4 that he believed led to inconclusive or incomplete results.

Mr. Brownell suggested that he proceed first with a description of the project and the presentation of the staff's recommendations for disposition of the application. Consideration of the request for an adjudicatory hearing would follow, with presentations by the staff, Akron and EAJA. The commissioners could then decide whether to grant an adjudicatory hearing. If the Commission denied the request for an adjudicatory hearing, the Commission could proceed to action on the application after hearing from the staff, Akron and EAJA. The commissioners agreed to this procedure.

Project Description

Mr. Brownell presented a description of the project in accordance with the information set forth in draft Docket No. 20040905 dated September 8, 2004 (Exhibit D). As noted above, this is an application for approval of a groundwater withdrawal of 1.08 mgd from Well 4 for public water supply.

In 1994, the Commission approved a withdrawal from Well 4 of 1.08 mgd. Because of water quality problems, the lower 20 feet of the well had been plugged, reducing its capacity. Recently, the EAJA decided that it would restore the capacity of the well by drilling out the plug and simply treating the water withdrawn from the well. Well 4, as now modified, allows water to be drawn from deeper zones in the aquifer and its use may result in new potential impacts. Therefore, the Commission staff decided that the well should be evaluated as a new source.

Well 4 is drilled through the Cocalico Formation (phyllitic shale and siltstone) into carbonate bedrock. The Cocalico Formation is cut by faults, as are the neighboring formations. One of the faults passes by Well 4, through the Cocalico Formation, and into Akron's Roland Park Well Field, passing close to Akron Well 9.

The 48-hour, constant rate pumping test was conducted from December 21 to 23, 2003, with prior Commission approval. Twenty-four monitoring points were covered during the test, including five residential-commercial wells, nine municipal wells (five Akron wells and four EAJA wells), an Akron Borough water supply spring, five stream locations and one wetland. The stream flowing in the fault-related valley adjacent to EAJA Well 4 was monitored at three locations for impacts to flow, and drawdown on the channel sand. The water level in Akron Well 9, located within 100 feet of the Cocalico Formation fault described above, was monitored for drawdown.

The monitoring extended from December 15 to December 30, 2003. The scope of this pumping test would be considered more extensive than most SRBC-approved pumping test regiments.

Staff Findings

The pumping test results indicated that Well 4 draws water from the Manheim-Lititz-Ephrata carbonate aquifer in the large valley to the west-northwest of Well 4. Three wells in that area exhibited drawdown that ranged from approximately 1.5 to 6.6 feet, a drawdown not considered an adverse impact to these wells. Similarly, analysis of flows in Cocalico Creek revealed no adverse impacts on flow or habitat.

The Borough of Akron expressed concerns about possible adverse effects to its Roland Park Well Field from the proposed withdrawal. Commission staff considered the potential for adverse impacts to Akron during its review of the pumping test plan and required additional monitoring for this reason. Streamflow and water levels in the shallow aquifer monitored at two locations between Well 4 and Akron's well field were not impacted during the pumping test. Water levels in the five Akron wells and the flow in the Akron Spring were also unaffected.

Test induced drawdown occurred only in wells to the west and north of Well 4 in the carbonate aquifer. No drawdown was observed in wells drilled in the Cocalico or New Oxford Formations to the south and east. These results therefore indicate the phyllitic shales and siltstones of the Cocalico Formation form a low permeability barrier between Well 4 and Akron's well field.

In addition, the fault that passes from the carbonate aquifer, past Well 4, through the Cocalico Formation hills and into Akron's well field, is not a high permeability path through the Cocalico Formation hills. There were no impacts to streamflow, groundwater in the channel sediments or Akron Well 9. A lack of impacts indicates that the fault does not provide a high permeability flow path for groundwater. The fault does not provide an efficient connection between Well 4 and the Roland Park Well Field.

Akron contends that precipitation and snowmelt before and after the test may have resulted in recharge of the Akron wells, thus skewing the pumping test results. Staff found that precipitation and snowmelt did not interfere with the evaluation of the test results. There were 0.61 inches of precipitation four days before the start of pumping and 0.59 inches of precipitation starting 11 hours after the completion of the pumping phase, and extending over an approximately 30-hour period. The events are discernable as very subtle water level rises of only a few tenths of a foot in the other monitored wells and neither event is discernable in the hydrograph for Well 4. Groundwater levels were either stable or in recession prior to the start of testing. A minor rise in groundwater levels occurred at some observation points near the time of the start of pumping, due apparently to slight recharge from snowmelt. However, the fluctuation was minor and did not interfere with interpretation of the test data.

Summary/Staff Findings/Recommendation

The EAJA Well 4 pumping test results confirm that: a) Well 4 draws water from an extensive carbonate aquifer, b) the Cocalico Shale acts as a barrier between EAJA Well 4 and the Roland Park Well Field, and c) operation of EAJA Well 4 will not impact Akron's Roland Park Well Field.

Therefore, staff recommended approval of the EAJA application for Well 4 in the amount of 1.08 mgd (30-day average) with all standard conditions and the following two special conditions: a) maximum instantaneous rate of production shall not exceed 750 gpm on Well 4, and b) the pumping water level in well 4 shall not exceed 500 feet below ground surface (bgs).

Request for an Adjudicatory Hearing

Deputy Director Thomas Beauduy presented the staff's position on the request by Akron for an adjudicatory hearing. He cited Commission Regulation 18 CFR §805.2 which states that:

The Commission, upon application by any interested party or upon its own motion, may determine that, due to outstanding issues of fact, an adjudicatory hearing shall be conducted. If, for any reason, the Commission determines that there are not sufficient issues of fact to schedule an adjudicatory hearing, it may still require briefs or oral argument on any issues of law.

The issue, therefore, is whether there are sufficient issues of fact related to the EAJA docket to schedule an adjudicatory hearing. The Borough of Akron claims that the pumping test is inconclusive and therefore provides questionable conclusions. Staff believes there are not

really issues of fact, but differences in the application of professional judgment to the pumping test facts by the Commission staff, the EAJA and Akron.

Mr. Nicholas Ermolovich, attorney for the Borough of Akron, accompanied by Mr. Daniel Guers, Borough Manager, and Mr. Jeffrey Bologna, P.G., consultant, presented Akron's case for an adjudicatory hearing. They alleged that there are data gaps left by the pumping test conducted by EAJA. The geologic setting of Well 4 is much too complex to rely on such a short-term test that did not provide enough observation well data from the north and east of Well 4. Furthermore, more assurance is needed that the precipitation events did not recharge the Borough's wells and that the numerous mapped faults in the area would not have an adverse impact. More information is also needed with respect to available recharge and the proposed pumping rate. Akron's position is summarized in a letter from Mr. Bologna to Manager Guers dated June 13, 2004 (Exhibit E).

Mr. Gary G. Kraftt, attorney for EAJA, accompanied by Mr. Thomas Waddington, P.G. and Mr. R. Scott Hughes and Mr. Steven Snyder of Gannett Fleming, Inc. spoke in opposition to the adjudicatory hearing request. EAJA, in close consultation with the Commission staff, did a very complete and extensive pumping test. The EAJA sought to provide the very best information to the Commission.

The results of the test show that there is very little communication between the carbonate aquifer from which Well 4 draws its water and the Cocalico Shale Formation where Akron's wells are located. EAJA is very confident in the test results that show little, if any, likelihood of adverse effects on Akron's wells. These test results have produced the facts and it is only a matter of different interpretation of these facts, not a dispute over the facts produced by the test. For further details, see letter dated July 26, 2004 from Thomas Waddington of Gannett Fleming, Inc. (Exhibit F).

Mr. Brownell noted that Well 4 has about a 10-year history of operation without causing problems. It is not possible to monitor every possible location, but the monitoring points in this case were selected very carefully to detect any impacts from Well 4. EAJA wanted to do a very thorough job. The pumping test would be considered as very extensive and expensive when compared to what is generally called for under the Commission's pumping test guidelines. All the data clearly show that the Cocalico shale is a different aquifer altogether than the carbonate formations from which EAJA water is coming. There is simply little communication between the two.

Discussion continued at length among the parties on the adequacy of the pumping test carried out by EAJA. Chairman Philbrick noted the 10-year history of operation and the extensive pumping test procedures employed by EAJA under the supervision of the Commission staff. There seemed to be few, if any, reasons to doubt or dispute the facts gathered by this extensive pumping test. Therefore, he could see no reason for an adjudicatory hearing.

The Deputy Director noted that the interests of Akron can be safeguarded through the conditions attached to the Akron docket. The Executive Director requested that the Commission formally act on Akron's request for an adjudicatory hearing.

Commissioner Myers moved a denial of the request, which was seconded by Commissioner Temple. Commissioner Myers commented that the pumping test performed by EAJA was well beyond what is normally required. It appears to have been done in a thorough and professional manner and therefore she had a high degree of confidence in the results that were produced. No contrary data had been presented that would lead the Commission to believe otherwise. The motion for denial of Akron's request for an adjudicatory hearing was then unanimously adopted by the Commission.

Action on the EAJA Docket

Having denied the request for an adjudicatory hearing, the Commission proceeded with action on the EAJA docket. Mr. Brownell explained that Akron's consultant, Mr. Bologa, had, in a letter to Akron Borough Manager Guers on September 2, 2004 (see attachment to Exhibit C), suggested eight additional monitoring requirements for EAJA's docket. He read the suggested requirements to the Commission.

He noted that Commission staff had reviewed these eight additional proposed requirements in the context of the conditions already recommended by staff for the EAJA docket approval. The staff concluded that these additional requirements are unnecessary. There are sufficient safeguards in the docket as recommended by staff, including water level monitoring, a maximum production rate coupled with total production monitoring, and limits on the amount of drawdown that can occur at Well 4. Drawdown is cut off at 500 feet below ground surface (bgs).

In addition, as standard boilerplate in every Commission docket, the Commission may reopen the EAJA docket and impose additional conditions if any future problems or conflicts develop. If, as a result of EAJA pumping, another user is adversely affected, the Commission may order replacement of the lost water supply or other mitigation measures, such as further pumping limitations.

Mr. Bologa again emphasized that long-term monitoring data would be better than a 48- or 72-hour pump test in measuring the impacts of EAJA Well 4 on other users. He wondered if all the monitoring information would ever be integrated to gain a clear picture of what is happening in the long term.

Chairman Philbrick stated that it should be the burden of Akron to gather this additional information and demonstrate to the Commission that there is a problem. EAJA had already fulfilled its responsibilities. He suggested that the two municipalities exchange information and work together to remove any doubts that Akron might have regarding the impacts of EAJA's withdrawals. Both staff and EAJA agreed that no further burden should be placed upon EAJA to, in effect, prove a harm.

Chairman Philbrick moved approval of the docket as recommended by staff with none of the additional requirements requested by Akron. This motion was seconded by Commissioner Myers and unanimously adopted.

5. 2005 Meeting Schedule

The Executive Director presented a proposed meeting schedule (Exhibit G) for 2005. Four meetings will be held, with two, 1-day sessions and two, 2-day sessions. The meeting in Harrisburg on June 8, 2005 would coincide closely with the SRBC-sponsored *Susquehanna River Symposium* scheduled for June 9, 2005. Video conference dates will also be reserved in February and October in the event they are needed.

On a motion by Commissioner Myers, seconded by Commissioner Temple, the proposed meeting schedule was unanimously adopted.

ADJOURNMENT

There being no further business before the Commission, Chairman Philbrick adjourned the meeting at approximately 3:10 p.m.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for December 15, 2004 in North East, Maryland.

Date Adopted



Richard A. Cairo
General Counsel/Secretary to the Commission



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040901
Approval Date: September 8, 2004

VILLAGE OF WEST WINFIELD

Groundwater Withdrawals (30-Day Averages) of 0.225 mgd each from Wells 3 and 4, and a Total System Withdrawal Limit (30-Day Average) of 0.225 mgd, for Public Water Supply, Village of West Winfield, Herkimer 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 for Well 4 on April 6, 2004, and additional information concerning Well 3 on August 11, 2004.

Description

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

Location. The project is located in the Upper Susquehanna Subbasin, HUC 02050101, Unadilla River Watershed, Village of West Winfield, Herkimer County, New York.

Project Features. The project sponsor has requested approval for the withdrawal (30-day averages) of 0.225 million gallons per day (mgd) each from Wells 3 and 4. Well 3 has been used since 1990 as a source for public water supply. Well 4, a new well, will function as an emergency supply and as a mechanical backup to Well 3.

Well 1, the previous backup supply well, is under the influence of surface water and was shut down due to bacteriological contamination in November 1999. The Village has had one source of supply since that time making the water supply system susceptible to drought, power outages, main breaks and well pump failure.

Wells 3 and 4 are located approximately one-half mile east of the Village of West Winfield along Route 20 adjacent to the Village park, and approximately 165 feet northwest of

the Unadilla River. Well 3 was drilled in 1966 and put into use in 1990 but never received Commission approval. Well 4 was installed 200 feet from Well 3.

Both wells are screened in sand and gravel valley-fill alluvium. Well 3 was constructed with a 8-inch diameter, gravel-packed stainless steel wire screen from a depth of 33 feet to a depth of 45 feet. Well 3 is cased with 8-inch-diameter steel casing to a depth of 33 feet. Well 4 was constructed with a 10-inch diameter, gravel-packed stainless steel wire screen from a depth of 24 feet to a depth of 44 feet. The well is cased with 10-inch-diameter steel casing to a depth of 24 feet.

The public water supply system has an existing average daily demand of 0.190 mgd, and an existing maximum daily demand of 0.268 mgd. The average and maximum daily demands are projected to grow to 0.220 and 0.286 mgd, respectively, by 2010.

Pumping Test. A 72-hour constant-rate pumping test of Well 4 was conducted on July 28 to 31, 2003, with prior Commission approval. In addition to the pumping well, the other production well (Well 3), three borings (B1, B2, and B5) and three drive points (DP 1, DP 2, and DP 3) were monitored during the test. During the testing of Well 4, Well 3 was pumped at a rate of 300 gpm for 7.5 to 8 hours daily during the test. Monitoring points were located at distances of 27 to 1,500 feet from Well 4. A stepped-rate pumping test of Well 4 preceded the constant-rate pumping test. Pumping at an average rate of 500 gallons per minute (gpm), total drawdown at the pumping well was approximately 1.1 feet at the end of the 3-day test.

A 30-hour pumping test of Well 3 was conducted on July 26 and 27, 1966, at an average pumping rate of 775 gpm. One observation well was monitored during the testing.

Coordination. Commission staff has coordinated with the New York State Department of Environmental Conservation (NYSDEC) Region 6 Office during review of the project. NYSDEC permitted Well 3 in 1998, and is reviewing an application for Well 4. 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 Wells 3 and 4 draw water from a highly transmissive valley-fill aquifer. The report describing the 1966 testing for Well 3 is incomplete. However, Commission staff does not recommend further testing because of the operating history of the well and the recent testing of nearby Well 4 in the same hydrogeologic setting.

Well 3, as the sole source of water supply for the village, was operated 7.5 to 8 hours per day during the 72-hour testing of Well 4. There is interference between the two wells, and the effects of pumping are shown in data from Borings 2 and 5 but not in the shallow drive points. The project sponsor indicates that the wells would not be operated at the same time.

Commission staff recommends approval of a 30-day average withdrawal of 0.225 mgd from Wells 3 and 4, and a total system 30-day average withdrawal of 0.225 mgd. Commission staff recommends approval of a peak instantaneous pumping rate of 340 gpm for Well 3 and 400 gpm for Well 4, the capacities of the installed pumps.

Well 3 is metered. Commission staff recommends that the project sponsor install appropriate metering on Well 4 to monitor and record the daily groundwater withdrawal.

While the project's use of Well 3 has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the groundwater withdrawal and the project sponsor has cooperated with Commission staff during its review. Due to these circumstances, Commission staff does not recommend imposition of a penalty for the prior noncompliance.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §804.20(a). The water system is 100 percent metered, which is in compliance with this regulation. According to its application, the system had an unaccounted-for water loss of 62 percent in 2002, which exceeds the 20 percent maximum set forth in Commission Regulation §804.20(a)(1). However, the project sponsor revised its Water Conservation Program in an April 25, 2004 submittal to NYSDEC. At that time, the project sponsor reported the repair of several major leaks (40 million gallons in 2002) that reduced unaccounted-for water to 12.5 percent in 2003, which is in compliance with Commission regulations. Therefore, Commission staff is recommending no additional action at this time.

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 groundwater withdrawals of 0.225 mgd (30-day average) from Wells 3 and 4, and a total system withdrawal limit of 0.225 mgd (30-day average) is approved pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including groundwater withdrawal reporting requirements, as per Commission Regulation §803.43.
- b. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels from Wells 3 and 4. 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 its meter on Well 3 and shall install a meter, accurate to within five (5) percent, on Well 4. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The maximum instantaneous rates of production from Wells 3 and 4 shall not exceed 340 gpm and 400 gpm, respectively.

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

e. If the Commission determines that the operation of the project's groundwater withdrawal from Wells 3 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.

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.

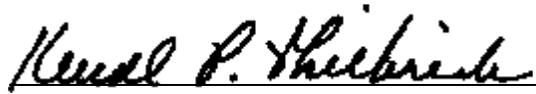
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

k. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2028, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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

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Docket No. 20040902

Approval Date: September 8, 2004

VILLAGE OF COHOCTON

Groundwater Withdrawal (30-Day Average) of 0.130 mgd from Well 4, and a Total System Withdrawal Limit (30-Day Average) of 0.130 mgd,
for Public Water Supply,
Village of Cohocton, Steuben 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 May 27, 2004.

Description

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

Location. The project is located in the Chemung Subbasin, HUC 02050105, Cohocton River Watershed, Village of Cohocton, Steuben County, New York.

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 0.130 million gallons per day (mgd) from Well 4. Well 4 will be used as a source for the public water supply system that currently relies on Wells 1 (Maple Ave.) and 2 (Erie St.). Wells 1 and 2 were drilled in 1967 and 1977, respectively, which was prior to the effective date of Commission Regulation §803.43, relating to groundwater withdrawals. The Commission approved a withdrawal from a new well, Well 3, in October 2003 (Commission Docket No. 20031004), as a replacement for the primary production well for the municipality. Well 4, the second new well, will function as a mechanical backup to Well 3. Wells 1 and 2 are contaminated with nitrate and will be abandoned when replaced with the new wells, Wells 3 and 4.

Well 4 is located approximately two miles north of the Village of Cohocton along Route 371 and approximately 1,500 feet east of the Cohocton River. The well was installed 200 feet from Well 3 and is screened in sand and gravel valley-fill alluvium. Well 4 was

constructed with a 10-inch diameter, gravel-packed stainless steel wire screen from a depth of 84 feet to a depth of 94 feet. The well is cased with 10-inch-diameter steel casing to a depth of 84 feet.

The public water supply system has an existing average daily demand of 0.115 mgd, and an existing maximum daily demand of 0.183 mgd. The average and maximum daily demands are projected to grow to 0.130 and 0.390 mgd, respectively, by 2028.

Pumping Test. A 48-hour constant-rate pumping test of Well 4 was conducted on March 8-10, 2004, with prior Commission approval. In addition to the pumping well, the recently-approved production well (Well 3), four observation wells (MW 3, 4, 5 and 6) and a drive point were monitored during the test. Monitoring points were located at distances of 8 to 1,000 feet from Well 4. A stepped-rate pumping test of Well 4 preceded the constant-rate pumping test. Pumping at an average rate of 390 gallons per minute (gpm), total drawdown at the pumping well was approximately 7.21 feet at the end of the 2-day test.

Coordination. Commission staff has coordinated with the New York State Department of Environmental Conservation (NYSDEC) Region 8 Office during review of the project. 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 4 draws water from a highly transmissive valley-fill aquifer. Commission staff recommends approval of a 30-day average withdrawal of 0.130 mgd from Well 4, and a total system 30-day average withdrawal of 0.130 mgd. Commission staff recommends approval of a peak instantaneous pumping rate of 390 gpm for Well 4.

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

Commission staff reviewed the groundwater availability analysis and supporting information submitted by the project sponsor. Commission staff has concluded that the groundwater withdrawal will not have a significant impact on private water supply wells in the area. The project sponsor's consultant evaluated groundwater availability in the Cohocton River aquifer and determined local average recharge during a one-in-ten-year drought to be more than 11 mgd. The total system withdrawal of 0.130 mgd proposed by the Village of Cohocton is less than 4 percent of this daily recharge.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §804.20(a). The water system is 95 percent metered, which is not in compliance with this regulation, and the system had an unaccounted-for water loss of 33 percent in 2001, which exceeds the 20 percent maximum set forth in Commission Regulation

§804.20(a)(1). As previously identified in its review of Well 3, Commission staff recommends that the project sponsor be required to comply with Commission Regulation §804.20(a) by October 9, 2008, and to report annually on its actions to install additional metering and reduce unaccounted-for water to the required 20 percent or less standard, including its routine leak detection program.

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 groundwater withdrawal of 0.130 mgd (30-day average) from Well 4, and a total system withdrawal limit of 0.130 mgd (30-day average) is approved pursuant to Article 3, Section 3.10 of the Compact, subject to the following conditions:

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

b. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels from Well 4. 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 install a meter, accurate to within five (5) percent, on Well 4. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The maximum instantaneous rate of production from Well 4 shall not exceed 390 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 source meters, have all of its customers metered, and shall have reduced the unaccounted-for water to 20 percent or less, and achieve full compliance with the requirements by October 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 October 9, 2008, deadline.

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

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.

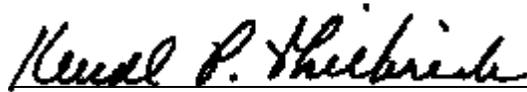
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

k. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2028, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

1. 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: September 8, 2004

A handwritten signature in black ink, reading "Kendl P. Philbrick". The signature is written in a cursive style and is positioned above a horizontal line.

Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20011202-1

Approval Date: December 13, 2001

Modification Date: September 8, 2004

WORLD KITCHEN, INC.—PRESSWARE PLANT

Groundwater Withdrawal (30-Day Average) of 1.728 mgd from Well 3,
for Manufacturing Water Supply,
City of Corning, Steuben 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 the withdrawal of groundwater. The Commission received the application for modification on May 3, 2004.

Description

Purpose. The Commission originally approved the project on December 13, 2001, as Docket No. 20011202 (docket). In the docket, World Kitchen, Inc.—Pressware Plant was approved for a groundwater withdrawal from Well 3 of 0.60 million gallons per day (mgd) for industrial water supply, subject to conditions enumerated in the docket. This docket modification rescinds certain provisions, corrects a calculation error made by the project sponsor, and increases the quantity (30-day average) of the approved groundwater withdrawal from the production well.

Findings

The project's groundwater withdrawal from Well 3 specified in the docket is for a 30-day average of 0.60 million gallons per day (mgd) and a maximum instantaneous pumping rate of 1,200 gallons per minute (gpm). Water withdrawn from the well is used in conjunction with that from Wells 1 and 2 as non-contact cooling water for the Pressware plant. The docket established that Wells 1 and 2 predate the effective date of Commission Regulation §803.43 relating to groundwater withdrawals. At the time of the Commission's approval, none of the three wells was metered.

The project sponsor based its requested quantity on the pumping rate of 1,200 gpm calculated for an 8-hour day (600,000 gallons per day [gpd]) instead of a 24-hour day (1,728,000

gpd). The project sponsor first made the error in its 'Registered Use of Well Permit' with the City of Corning in 1998 and copied the error onto the Commission's application in 2001. The application was submitted during the Commission's Compliance Incentive Program.

Pressware is a glassmaking plant that operates 24 hours per day, 7 days per week and has a non-contact cooling water use that remains relatively constant. Water from the facility's non-contact cooling water system is discharged to the Chemung River.

Although the project sponsor has submitted its monitoring data as required in the docket, the metering was faulty and the withdrawal was estimated much of the time. Apparently there also were problems metering the discharge to the Chemung River, and the inconsistencies of inflow and outflow were not apparent. When the project sponsor installed a new meter in August 2003, the monitoring indicated the actual quantity of the withdrawal from Well 3. At that time, the project sponsor discovered its error, and submitted the current request for modification.

Commission staff recommends that the approved quantity of the withdrawal from Well 3 specified in the original docket be modified to a 30-day average of 1.728 mgd according to these findings.

The project sponsor has also requested a waiver of the pumping test requirements. Commission staff recommends approval of this request since the project has been in continuous operation at the same pumping rate since the original application was submitted in 2001 without any known environmental harm.

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

The project sponsor has indicated that the consumptive use of water has not increased since 1971, and has agreed to submit documentation to establish this quantity. Commission staff recommends that the project sponsor submit its documentation within 60 days of the date of this approval for review.

Commission staff recommends that all conditions in Commission Docket No. 20011202 that are not inconsistent with this docket action should remain effective.

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

The project sponsor has paid the appropriate application fee, pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. Commission staff recommends that the contiguous property

owner notification requirements specified in Commission Regulation §803.25 (a) be waived because of the nature of the modification. The project sponsor has submitted all other proofs of notification, as required by Commission Regulation §803.25.

Based on Commission Regulation §803.30(a), the prior docket approval is effective until January 18, 2020. Commission staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. Commission Docket No. 20011202, as approved December 13, 2001, is hereby modified as follows:

The project is approved for a 30-day average withdrawal of 1.728 mgd from Well 3, pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. Conditions (b) and (i) of Commission Docket No. 20011202, as approved December 13, 2001, are hereby rescinded.

b. 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 3. The meter shall measure the pumpage from Well 3 separately from Wells 1 and 2. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The contiguous property owner notification requirements specified in Commission Regulation §803.25 (a) are hereby waived.

d. 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.

e. 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.

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

g. Within 60 days of the date of this approval, the project sponsor shall submit documentation to establish its quantity of consumptive water use.

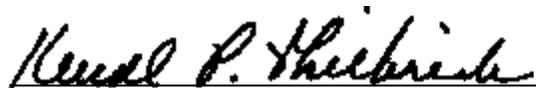
h. All other conditions in Commission Docket No. 20011202 not inconsistent herewith shall remain effective.

i. Based on Commission Regulation §803.30(a), this approval is effective until December 13, 2026. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by June 13, 2025, and obtain Commission approval prior to continuing operation beyond December 13, 2026.

j. 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: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



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Docket No. 20040903

Approval Date: September 8, 2004

NORTHAMPTON FUEL SUPPLY COMPANY, INC. PROSPECT BANK OPERATION

Consumptive Water Use of Up to 0.050 mgd,
for Surface Mining of Coal Refuse Material,
Plains Township, Luzerne County, Pennsylvania

Review Authority

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

Description

Purpose. The purpose of the application is to request approval for consumptive use of that water related to the surface mining of coal refuse material.

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.050 million gallons per day (mgd). The project sponsor calculates the current maximum average 30-day consumptive water use to be 0.017 and peak day consumptive water use to be approximately 0.050 mgd.

The project sponsor excavates coal refuse material from the Prospect bank for the recovery of coal. The project sponsor began mining the coal refuse bank in 2003.

The project uses a mobile coal preparation/processing facility to separate usable coal from the coal refuse. The project consumptively uses water for coal screening operations and dust control on haul roads.

The project currently uses groundwater for its mining operation and withdraws less than 0.100 mgd on a 30-day average from a single existing production well. Water is withdrawn from

a deep mine pool and pumped directly to the screening operation. Water from the mine pool also supplies water trucks for dust control on haul roads. Wastewater and fines from the screening operation are injected back into the mine pool.

Consumptive water use for the screening operations is estimated by the project sponsor based on the percent moisture retained in products and waste materials. The project sponsor calculates consumptive water used for dust control by multiplying the capacity of the water truck(s) by the number of truckloads of water.

The project sponsor anticipates an increase in existing 30-day average consumptive water use due to the increasing length of the haul roads.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP), Bureau of District Mining Operations, during review of the project. PADEP staff has reviewed this docket for consistency with its Surface Mining Permit No. 40840206R3.

Findings

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

All water used in coal screening operations and retained in the screened materials and waste products, and used for dust control is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use.

Commission staff recommends that the project sponsor install a meter on the mine pool well to measure the daily quantity of water withdrawn from the well. The project sponsor could propose an alternative to metering for the Commission staff's review and approval.

The total quantity of water pumped to the screening plant, minus the quantity of water returned to the mine from the screening plant (density compensated), is consumptively lost either through evaporation or retention in the coal or waste product at the screening plant. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the screening plant system. The project sponsor could propose an alternative to metering for the Commission staff's review and approval.

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

The project sponsor has requested a consumptive water use approval of up to 0.050 mgd. Commission staff is recommending approval of the requested amount. Should the project's

future consumptive water use exceed or be expected to exceed 0.050 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 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.

Commission staff has reviewed historical data submitted by the project sponsor and determined that, based on that data, the project has historically operated below the regulatory threshold of Commission Regulation §803.42.

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 0.050 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 to measure the daily quantity of water withdrawn from the mine pool. 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 screening operation. 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 in coal screening

operations and retained in the screened materials and waste products, and used for dust control. 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. 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 coal screening operations and retained in the screened materials and waste products, and used for dust control. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

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

k. If the project sponsor fails to comply with 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.

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

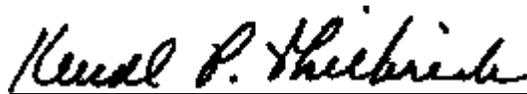
m. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

n. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20040904

Approval Date: September 8, 2004

NORTHAMPTON FUEL SUPPLY COMPANY, INC. LOOMIS BANK OPERATION

Consumptive Water Use of Up to 0.050 mgd,
for Surface Mining of Coal Refuse Material,
Hanover Township, Luzerne County, Pennsylvania

Review Authority

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

Description

Purpose. The purpose of the application is to request approval the consumptive use of that water related to the surface mining of coal refuse material.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Warrior Creek and Back Creek Watersheds, Hanover Township, Luzerne County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.050 million gallons per day (mgd). The project sponsor calculates the maximum average 30-day consumptive water use to be 0.025 mgd.

The project sponsor proposes to excavate coal refuse material from the Loomis Bank for the recovery of coal. Mining operations are scheduled to begin during the fourth quarter of 2004.

The project will use a mobile coal preparation/processing facility to separate usable coal from the coal refuse and will consumptively use water for screening operations and for dust control on haul roads.

Water will be withdrawn from a deep mine pool well and pumped directly to the screening operation. Wastewater and fines from the screening operation will be injected into the mine pool.

Water from the mine pool well also will supply water trucks for dust control on haul roads.

Consumptive water use for the screening operations is estimated by the project sponsor based on the design capacity of the screening plant, the projected number of hours of operation, and the percent moisture retained in products and waste materials, based on the historical operation of the portable plant at other locations.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP), Bureau of District Mining Operations, during review of the project. PADEP staff has reviewed this docket for consistency with its Surface Mining Permit No. 40940205C3.

Findings

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

All water used in coal screening operations and retained in the screened materials and waste products, and used for dust control is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use.

Commission staff recommends that the project sponsor install a meter on the mine pool well to measure the daily quantity of water withdrawn from the well. The project sponsor could propose an alternative to metering for the Commission staff's review and approval.

The total quantity of water pumped to the screening plant, minus the quantity of water returned to the mine from the screening plant (density compensated), is consumptively lost either through evaporation or retention in the coal or waste product at the screening plant. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the screening plant system. The project sponsor could propose an alternative to metering for the Commission staff's review and approval.

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

The project sponsor has requested a consumptive water use approval of up to 0.050 mgd. Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.050 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 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 consumptive water use of up to 0.050 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 to measure the daily quantity of water withdrawn from the mine pool. 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 screening operation. 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 in coal screening operations and retained in the screened materials and waste products, and used for dust control. 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. 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 coal screening operations and retained in the screened materials and

waste products, and used for dust control. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

f. If an increase in the project's groundwater withdrawal from the well 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. The project sponsor shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

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

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

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

k. If the project sponsor fails to comply with 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.

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

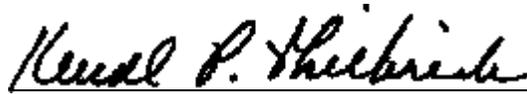
m. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

n. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

o. 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: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



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Docket No. 20021006-1

Approval Date: October 10, 2002

Modification Date: September 8, 2004

EAGLE ROCK RESORT CO.

Groundwater Withdrawal of 0.800 mgd (30-Day Average) From an Abandoned Quarry, and a Consumptive Water Use of Up to 0.450 mgd, for Snowmaking and Golf Course Irrigation, Black Creek and Hazle Townships, Luzerne County, and East Union Township, Schuylkill County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the consumptive use of water, and §803.43, relating to the withdrawal of groundwater. The Commission received the request for modification of the release requirement on July 9, 2004.

Description

Purpose. The Commission originally approved the project on October 10, 2002, as Docket No. 20021006 (docket). In the docket, Eagle Rock Ski and Golf Resort was approved for a groundwater withdrawal from an abandoned quarry of 0.800 million gallons per day (mgd), as a 30-day average, and a consumptive water use of up to 0.450 mgd, for a peak day, for snow making and golf course irrigation, subject to conditions enumerated in the docket. This docket modification rescinds certain provisions, changes the name of the project sponsor, and revises the release requirement from the quarry to better reflect local conditions.

Findings

Due to incorrect information supplied with the original project application, this docket had been issued to Eagle Rock Ski and Golf Resort, a non-existent entity, on October 10, 2002. Based on corrective information supplied by Eagle Rock Resort Co. in the form of a written submission and oral testimony to the Commission on March 10, 2004, staff recommends that the docket be reissued in the name of Eagle Rock Resort Co.

The docket identified the sole source of water as an abandoned quarry located at the headwaters of an unnamed tributary to Tomhicken Creek. The quarry receives water from groundwater and has no significant surface-water inflow. The project's groundwater withdrawal

specified in the docket is for a 30-day average of 0.800 mgd, a maximum daily withdrawal of 2.0 mgd, and a maximum instantaneous pumping rate of 2,250 gallons per minute (gpm).

The unnamed tributary to Tomhicken Creek that issues from the quarry outlet is classified as a cold-water fishery (CWF) (25 Pa. Code Chapter 93). Commission staff previously calculated an annual average daily flow (ADF) rate at the site of 0.482 cubic feet per second (cfs), or 216 gallons per minute (gpm), using flow data from Wapwallopen Creek and applying a drainage area ratio. Based on the stream's classification as CWF and Pennsylvania Fish and Boat Commission's determination that it is a Class D cold water fishery, its geographic location in the watershed and the anticipated associated fishery of combined species of fish, Commission staff determined a passby flow of 45 percent of annual ADF, which is equal to 97.4 gpm. This calculation was based on a drainage area of 206.7 acres (0.322 square miles).

The project sponsor has submitted information to document that a drainage ditch drains the upstream, eastern part of the watershed, effectively dividing the watershed area. Fifty-three (53) percent of the area drains to a wetland and stream east of the quarry, and subsequently south through a drainage culvert beneath Route 924 and enters Tomhicken Creek upstream from the unnamed tributary that flows from the quarry. Commission staff has reviewed the information, and finds that only the western part of the watershed drains to the quarry. The drainage area for the quarry should be 95.2 acres (0.148 square miles), and that the calculation for the passby flow should be adjusted accordingly.

The project sponsor also requested that another stream with a smaller drainage area than Wapwallopen Creek be used as a reference for the pass-by flow calculations, and suggested using the average flow calculations for Tomhicken Creek contained in PADEP's recently released TMDL report for Catawissa Creek. Commission staff finds that there are too few flow measurements for the Tomhicken Creek data to be acceptable.

However, Commission staff finds that Trexler Run, measured at the U.S. Geological Survey's stream gage 01540200 on Trexler Run near Ringtown, Pa., is acceptable as a reference stream for the analysis. Trexler Run is proximal to the project site and has a smaller drainage area (1.77 square miles) than Wapwallopen Creek. The watershed of Trexler Run receives similar amounts of rainfall and its bedrock and surficial geology is similar to that of Tomhicken Creek.

Flow calculations for the unnamed tributary to Tomhicken Creek, using the drainage area ratio method (and the smaller drainage area of 0.148 square miles) and based on flow data from Trexler Run (as the reference stream), indicate ADF is 0.186 cfs or 83 gpm. Based on the stream's classification as CWF and Pennsylvania Fish and Boat Commission's determination that it is a Class D cold water fishery, its geographic location in the watershed and the anticipated associated fishery of combined species of fish, Commission staff again used the Pennsylvania/Maryland Instream Flow model to determine a revised passby flow for the unnamed tributary to Tomhicken Creek at this site. Commission staff recommends a passby flow of 48 percent of annual ADF, which is equal to 0.089 cfs or 40 gpm.

Commission staff recommends that the project sponsor should maintain a downstream release of water from the quarry of 40 gpm. However, the project sponsor may monitor flow in

the unnamed tributary that drains the eastern part of the watershed (through the drainage ditch) as a reference stream and release an amount equal to the total flow in the unnamed, eastern tributary when its flow is less than 40 gpm. Commission staff recommends that the project sponsor demonstrate that the pumping from the quarry does not significantly impact flow in its reference stream.

The required release of water from the quarry should be made in such a way to convey the water a minimum of 100 feet downstream from the abandoned quarry to insure there is no recirculation of the water. The project sponsor must submit its design and a proposed construction schedule for accomplishing the required release of water to Commission staff for review and approval.

The project sponsor also must install flow measurement devices that measure the outflow of the quarry and flow in the unnamed tributary to the east, and keep daily records of these data. Commission staff will review and approve plans and a proposed construction schedule for these measurement devices prior to construction, and approve the final installation of the devices.

Commission staff recommends that all conditions in Commission Docket No. 20021006 that are not inconsistent with this docket action should remain effective.

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

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

Based on Commission Regulation §803.30(a), the prior docket approval is effective until October 10, 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. 20021006, as approved October 10, 2002, is hereby modified as follows:

- a. The Commission hereby reissues this docket in the name of Eagle Rock Resort Co.
- b. Conditions (e), (f), and (n) of Commission Docket No. 20021006 as approved October 10, 2002, are hereby rescinded.
- c. The project sponsor shall maintain a downstream release of water to the unnamed tributary to Tomhicken Creek that issues from the quarry of 0.089 cfs (40 gpm), or an amount equal to the total flow in the unnamed tributary to the east when its flow is less than 40 gpm. The required release of water shall be made in such a way to convey the water a minimum of 100

feet downstream from the quarry. The project sponsor shall install flow measurement devices that measure the outflow from the quarry and the flow in the unnamed, eastern tributary. The project sponsor shall keep daily records of the outflow of the quarry and the flow in the unnamed, eastern tributary, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter.

d. The project sponsor shall submit its design to accomplish the release of water from the quarry, the outflow measurement device, and the device to measure flow in the unnamed, eastern tributary, and a proposed construction schedule within sixty (60) days of 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 flow release system from the quarry shall be kept fully functional and free of debris.

e. The project sponsor shall submit a monitoring plan for review and approval by commission staff to demonstrate that the pumping from the quarry does not impact flow in the unnamed, eastern tributary.

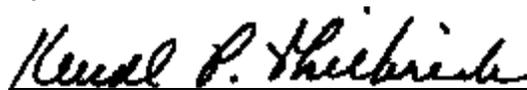
f. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation or order of the Commission, or any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice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

g. All other conditions in Commission Docket No. 20021006, as approved October 10, 2002, not inconsistent herewith shall remain effective.

h. Based on Commission Regulation §803.30(a), this approval is effective until October 10, 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 April 10, 2027, and obtain Commission approval prior to continuing operation beyond October 10, 2027.

i. 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:



Kendl P. Philbrick, Chair
Maryland Commissioner

Dated: September 8, 2004



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040906

Approval Date: September 8, 2004

EASTERN INDUSTRIES, INC. LEWISBURG QUARRY

Surface-Water Withdrawal of Up to 0.300 mgd from Buffalo Creek,
and Consumptive Water Use of Up to 0.181 mgd,
for Quarrying of Limestone and Processing of Aggregate,
Buffalo Township, Union 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 applications for consumptive water use and surface-water withdrawal on May 6, 2004 and August 2, 2004, respectively.

Description

Purpose. The purpose of the application is to request approval for a withdrawal from existing wells and Buffalo Creek, and the consumptive use of that water for the quarrying of limestone and processing of aggregate.

Location. The project is located in the West Branch Susquehanna Subbasin, HUC 02050206, Buffalo Creek Watershed, Buffalo Township, Union County, Pennsylvania.

Project Features. The project sponsor has requested approval for a withdrawal of up to 0.300 million gallons per day (mgd) of water from Buffalo Creek and a consumptive use of water of up to 0.181 mgd. The project sponsor calculates the current maximum average 30-day consumptive water use to be 0.041 and peak day consumptive water use to be approximately 0.095 mgd. The project currently uses groundwater exclusively for its operations and withdraws a total of less than 0.100 mgd on a 30-day average from 5 existing production wells.

The project sponsor excavates limestone from upper Silurian Carbonate formations in an open pit for the production of aggregate. The project consumptively uses water for aggregate washing, dust control on haul roads, and in its crushing and asphalt operations. The quarry was operating prior to 1971.

The project used a portable crusher unit for many years. During the period from 1994 to 1999, operations were expanded to include permanent primary and secondary crushing units, an aggregate wash plant, and an asphalt plant. With the addition of these facilities, production has increased dramatically. The project sponsor projects this growth trend will continue for the next 5 years.

Five wells and two wash ponds are used to supply the stone processing operations. A sixth well is used for potable supply. All wells are equipped with pumps capable of producing 40-50 gallons per minute (gpm), and are not metered. Based on information provided from the project sponsor the six wells were constructed since 1999.

Water from Well 1 is pumped to an 8,000-gallon surge tank and then to the primary crusher system. Water from Well 2 is pumped to the two wash ponds then to the aggregate washing operation. The proposed stream withdrawal also will be directed to the two wash ponds and the aggregate washing operation. Excess water from the wash plant is returned to the wash ponds. Water from Wells 3 and 4 is pumped to a 10,000-gallon surge tank and then to the secondary crushing operations. Water from Well 5 is pumped directly to the asphalt plant for dust control.

The project sponsor has requested a withdrawal from Buffalo Creek to be used as an additional water source as the quarry operations expand toward Buffalo Creek. According to the project sponsor, the maximum instantaneous pumping capacity of the proposed surface-water withdrawal system will not exceed 500 gpm.

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

Currently consumptive water use for the crushing, washing and asphalt operations is estimated by the project sponsor based on the design capacity of the dust control systems, the number of hours of operation, and the percent moisture retained in the product.

The total surface area of the two wash plant ponds is 1.99 acres. Based on information provided from the project sponsor, the ponds were constructed in 1999.

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 proposed withdrawal from Buffalo Creek during its review of the quarry operation for mining above the water table. PADEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 60840401A.

Findings

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

All water used in aggregate production and retained in the aggregate, used for equipment washing, trucked off site, used for dust control, and evaporated from the 1.99 acres of the wash plant ponds is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use.

Water withdrawn from the five production wells is not metered. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water withdrawn from Wells 1, 2, 3, 4, and 5.

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 project sponsor could propose an alternative to metering for the Commission staff's review and approval.

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

Commission staff recommends the project sponsor calculate the evaporative loss from the ponds using a methodology acceptable to the Commission.

The project sponsor has requested a withdrawal of up to 0.300 mgd from Buffalo Creek. Buffalo Creek is classified as a cold-water fishery (CWF). Commission staff has calculated the 7-day 10-year low flow (Q7-10 flow) for Buffalo Creek to be 20.8 cfs (9,318 gpm) at the point of withdrawal. The project sponsor's requested maximum pumping capacity of 500 gpm is less than 10 percent (931.8 gpm) of the Q7-10 flow at the point of taking. Therefore, no additional surface-water withdrawal limitations currently are required. Commission staff recommends that the surface-water withdrawal system pump be equipped with a meter and that the project sponsor report the daily withdrawal to the Commission.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 10,000 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 0.181 mgd. Based on an analysis of production and sales records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an

increase of approximately 90 percent above the current estimated peak-day use of 0.095 mgd. Should the project's future consumptive water use exceed or be expected to exceed 0.181 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff finds that the 5 production wells are utilized at a total of less than 100,000 gpd on a 30-day average and, therefore, this withdrawal is currently less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals. If the 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.

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 June 1, 2003, when its consumptive water use exceeded 30,000 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 \$1,828.67 settlement to the Commission to compensate for noncompliance in violation of Commission Regulation §803.4 for the period of noncompliance beginning on June 1, 2003, and ending on the date of this approval. Commission staff recommends acceptance of the project sponsor's proposed settlement.

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

Decision

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 Buffalo Creek of up to 0.300 mgd, and the consumptive use of water of up to 0.181 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain a meter(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.

c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used for equipment washing, trucked off site, used for dust control, and evaporated from the 1.99 acres of the wash plant ponds. Commission staff shall review and approve the method of calculation for evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

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

f. The project sponsor shall submit its design, metering plan, and a proposed construction schedule for a stream intake structure within ninety (90) days from the date of this approval for review and approval by Commission staff prior to any construction. Following approval, the project sponsor shall complete construction in accordance with the approved schedule and shall certify to the Commission that construction has been completed in accordance with the approved design.

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, and evaporated from the 1.99 acres of the wash plant ponds. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.010 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero.

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

h. The project sponsor has offered a settlement by agreement pursuant to Commission Regulation §805.27, in the amount of \$1,828.67, 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 Wells 1, 2, 3, 4, or 5 adversely affects any existing groundwater or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

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

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

m. If the project sponsor fails to comply with 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.

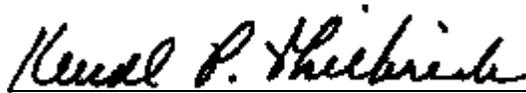
o. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

p. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20040907

Approval Date: September 8, 2004

HANSON AGGREGATES PENNSYLVANIA, INC. OAK HALL QUARRY

Consumptive Water Use of Up to 0.145 mgd,
for Quarrying of Limestone and Processing of Aggregate,
College Township, Centre County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on June 2, 2003 and modifications on April 5, 2004.

Description

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

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

Project Features. The project sponsor originally requested approval for the consumptive use of water of up to 0.099 million gallons per day (mgd) in June 2003 and modified their application to request 0.300 mgd in April 2004. Based on daily water use data from June 2003 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be approximately 0.060 mgd, and current peak-day consumptive water use to be approximately 0.115 mgd.

The project sponsor excavates limestone from of Middle Ordovician-age for the production of aggregate. The quarry was in operation prior to 1970.

Water for the quarry's processing operation is withdrawn either from the quarry pit or from a well (Well 1). Groundwater from the quarry pit sump is either pumped directly to Spring Creek, the tailings pond, or into water trucks to be used for dust suppression. The quarry pit sump is equipped with a meter. Water is pumped from the tailings pond to the wash plant.

Water leaving the wash plant is discharged to the sedimentation pond, clarified, and transferred by truck to the tailings pond.

Water withdrawn from Well 1 is pumped directly to the crushing plant for dust control. Well 1 was in operation prior to 1971. The well has a pumping capacity of 17 gallons per minute (gpm) and is metered.

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

The sediment and tailings ponds were constructed in 1987 and have a total combined surface area of 1.15 acres. The quarry pit sump was in existence prior to 1971.

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. 4775SM10 and NPDES Permit No. PA0596639.

Findings

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

All water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, used for dust control, and evaporated from the sediment and tailings ponds is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use.

Water withdrawn from the tailings pond for the processing operation is not metered. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water pumped from tailings pond.

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

Commission staff recommends the project sponsor calculate the evaporative loss from the sediment and tailings ponds using a methodology acceptable to the Commission.

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 project sponsor could propose an alternative to metering for the Commission staff's review and approval.

Water withdrawn from Well 1 is metered and used consumptively for dust control at the crushing plant.

The project sponsor has requested a consumptive water use approval of up to 0.300 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of 0.145 mgd, which represents an increase of approximately 26 percent above the current estimated peak-day use of 0.115 mgd. Although the recommended amount of 0.145 mgd is less than the requested quantity, the amount is consistent with similar projects and the typical water use needs to support the projected growth demonstrated by the project sponsor. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.145 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 12,000 gpd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

The project's consumptive use of water in excess of the grandfathered quantity is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor originally applied to use on-site storage; however, during the review process proposed to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

Commission staff finds that Well 1 was placed in use prior to the effective date of Commission Regulation §803.43 and is utilized at less than 100,000 gpd on a 30-day average. Thus, the withdrawal is not subject to review and approval under Commission Regulation §803.43. If the groundwater withdrawal from the Well 1 exceeds or is expected to exceed the thresholds set in Commission Regulation §803.43, the project sponsor must submit a groundwater withdrawal application to the Commission.

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 sump for the quarry dewatering. Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal from the quarry sump, and report the data to the Commission quarterly. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

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

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

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

The project sponsor has operated in violation of Commission regulations since January 1, 1993, when its consumptive water use exceeded the threshold specified in Commission Regulation §803.42. 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 \$23,000 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.

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.145 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain metering, accurate to within five (5) percent, to measure the daily quantity of water entering and leaving the wash plant. 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 metering, accurate to within five (5) percent, to measure the daily quantity of water withdrawn from the tailings pond. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.
- d. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on the groundwater withdrawal from the quarry sump, and keep weekly records for the project's withdrawal. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative monitoring to the Commission for staff review and approval.
- e. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly

monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, used for dust control, and evaporated from the sediment and tailings ponds. Commission staff shall review and approve the method of calculation of evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

f. The project sponsor shall keep daily records of the project's groundwater withdrawal from Well 1. The project sponsor shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. If the project's groundwater withdrawal from Well 1 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 in screening operations, used for equipment washing, used for dust control, and evaporated from the sediment and tailings ponds. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 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 shall comply with the water conservation requirements specified in Commission Regulation §804.20(b).

i. The project sponsor has offered a settlement by agreement pursuant to Commission Regulation §805.27, in the amount of \$23,000, 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.

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

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

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

m. If the project sponsor fails to comply with 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.

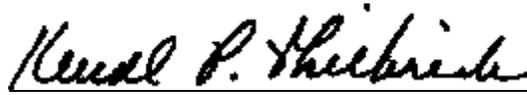
o. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

p. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004

A handwritten signature in black ink, reading "Kendl P. Philbrick". The signature is written in a cursive style and is positioned above a horizontal line.

Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040908

Approval Date: September 8, 2004

PENNSY SUPPLY, INC. MILLARD QUARRY

Consumptive Water Use of Up to 0.550 mgd
for Quarrying of Limestone and Dolomite, and Processing of Aggregate,
North Londonderry and South Annville Townships, 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 original application from Pennsylvania Lime, Inc. on July 2, 2001. The property was subsequently acquired by Pennsy Supply, Inc., which currently operates the quarry. The Commission received an updated application from Pennsy Supply, Inc. on July 28, 2004.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050305, Swatara Creek Watershed, North Londonderry and South Annville Townships, Lebanon County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.550 million gallons per day (mgd). Based on daily water use data for the years 2002 and 2003 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be approximately 0.330 mgd, and current peak-day consumptive water use to be approximately 0.500 mgd.

The project sponsor excavates high-calcium limestone from the Ordovician-age Annville Formation and dolomite from the Ordovician-age Ontelaunee Formation in an open pit for the production of lime and aggregate. The quarry has been in operation since approximately 1880.

The original application was submitted to the Commission by Pennsylvania Lime, Inc. (currently operating as Carmeuse Lime), and included all quarrying and lime production operations. In December 2001, Pennsy Supply, Inc. acquired the property and has operated the quarry since that time. Carmeuse Lime leases a portion of the property from the project sponsor, and currently owns and operates the lime production plant located on that property. The project sponsor processes high-calcium limestone and supplies Carmeuse Lime with this material for production of lime products.

Water for quarry operations is withdrawn from the quarry sump and pumped to a storage pond located adjacent to the quarry sump. Water is discharged from this storage pond to the primary storage pond, and then pumped via a series of two pumping stations to a reservoir that predates the Commission's regulations. The quarry sump and two storage ponds have a total surface area of 4.0 acres. Overflow from the primary storage pond is discharged at two locations to Killinger Creek.

Water is withdrawn from the reservoir and is used at the quarry's four processing plants, identified as the primary crusher plant, the secondary crusher plant, the wash plant, and the finish plant. Water from the reservoir is used primarily for dust suppression at each of the processing plants, and for aggregate screening and washing operations at the wash and the finish plants. The withdrawal from the reservoir is not metered.

Water also is withdrawn from the project's pond system to fill water trucks used for dust control on haul roads within the quarry. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number truckloads of water used for dust control.

Runoff from quarry operations is collected in three sediment ponds having a total surface area of 13.7 acres. Water from the primary sediment pond, located immediately to the east of Killinger Creek, is conveyed underground to the primary storage pond and reused for quarry operations.

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. 38870301T4 and NPDES Permit No. PA0595543.

Findings

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

All water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the quarry sump, two storage ponds, and three sediment ponds is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water

use be calculated by summing the daily consumptive water use from these categories of use. The reservoir predates the Commission's consumptive use regulation; therefore, the project sponsor is not required to provide compensation for the evaporative losses from the reservoir.

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

The project sponsor withdraws water from the project's pond system to control dust on haul roads on the property. Commission staff recommends that the quantity of water used for dust control should be calculated based on the capacity of the water trucks and the number of truckloads of water withdrawn. The project sponsor maintains a log of the daily number of truckloads of water used for dust control.

Water evaporated from the quarry sump, two storage ponds, and three sediment ponds, having a total surface area of 17.7 acres, will be calculated by the project sponsor employing a methodology acceptable to the Commission.

The project sponsor has requested a consumptive water use approval of up to 0.550 mgd. Based on an analysis of water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 10 percent above the current estimated peak-day use of 0.500 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.550 mgd, the project sponsor must apply for a modification to this docket at that time.

Operations at the quarry predate January 23, 1971, the effective date of Commission Regulation §803.42. However, the project sponsor has limited knowledge of the pre-1971 consumptive water use and has requested no "grandfathered" quantity.

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

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 sump for the quarry dewatering. Commission staff recommends that the project sponsor install and maintain metering, accurate to within 5 percent, on the groundwater withdrawal for the quarry sump, and report the data to the Commission annually. The project sponsor could propose an alternative to metering for Commission staff's review and approval.

The project has been permitted by PADEP for future underground mining operations on a portion of the property located south of the primary sediment pond. Commission staff recommends that the project sponsor apply for a modification to this docket for any increased consumptive water use related to this activity, if necessary, at least six months prior to commencing underground mining operations.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby incorporated into and made a part of this decision. The project's consumptive water use of up to 0.550 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, to measure the daily quantity of water entering and leaving the quarry's four processing plants, identified as the primary crusher plant, the secondary crusher plant, the wash plant, and the finish plant. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.
- c. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the quarry sump, two

storage ponds, and three sediment ponds. Commission staff shall review and approve the method of calculation for evaporative loss from the ponds. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

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

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

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

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

h. 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 September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

1721 North Front Street • Harrisburg, Pennsylvania 17102-2391

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Docket No. 20040909

Approval Date: September 8, 2004

PENNSY SUPPLY, INC. PENN TOWNSHIP QUARRY

Consumptive Water Use of Up to 0.091 mgd,
for Quarrying of Limestone, Processing of Aggregate, and Production of Concrete,
Penn Township, Cumberland County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 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 July 10, 2003.

Description

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

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050305, Conodoguinet Creek Watershed, Penn Township, Cumberland County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.091 million gallons per day (mgd). The project sponsor calculates that the project's maximum average 30-day consumptive water use will be approximately 0.064 mgd, and peak-day consumptive water use will be 0.091 mgd.

The project sponsor proposes to excavate limestone from the Cambrian-age Zullinger Formation in an open pit for the production of aggregate, concrete and asphalt. Quarry operations are anticipated to begin in late 2004. A portable aggregate processing plant will be used during the initial operation until the permanent processing plant is constructed.

Water for the quarry's operation will be withdrawn from three wells (Wells 1, 2, and 3). The project sponsor reports that the combined withdrawal from the wells will be less than 100,000 gallons per day (gpd) on a 30-day average and, thus, the withdrawal will be less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals.

Water withdrawn from Well 1 will be used for dust control at the portable and permanent processing plants. Well 1 also will be pumped, as needed, to maintain water in a series of three sediment ponds having a total proposed surface area of 0.21 acres. Water will be withdrawn from the sediment ponds and used for aggregate screening and washing operations at the processing plant. Runoff from processing operations will be discharged to the sediment ponds and reused at the processing plant.

Well 2 will be located near the proposed office/shop building, and will provide water for sanitary purposes in that building. Water withdrawn from this well also will be used for equipment washing.

Water withdrawn from Well 3 will be used at the concrete plant for the production of ready-mix concrete. Water will be incorporated into product, trucked off site, and used for equipment washing.

Water also will be withdrawn from one or more of the project's water sources to control dust on quarry haul roads.

A quarry sump will be installed for quarry dewatering operations. Water that collects in the quarry sump will be pumped into a series of two retention ponds located on the north side of the quarry pit and having a total proposed surface area of 0.34 acres. Initially, mining will occur above the groundwater table, and water from the two retention ponds will be discharged to three surface infiltration basins. The infiltration basins will cause surface-water runoff pumped from the quarry sump to evaporate and infiltrate into the ground instead of being discharged to a stream. Initially, Infiltration Basin 1 (proposed 0.87 acres) will be constructed to handle the dewatering operations, and Infiltration Basins 2 and 3 (proposed 0.46 acres and 1.33 acres, respectively) will be constructed as needed.

When quarrying occurs below the groundwater table, a system of three subsurface pipe galleries is proposed to distribute water into gravel-filled trenches for infiltration to the groundwater system.

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, and the Commission considered this review as adequate to meet the requirement of Commission Regulation §803.43. PADEP staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 21020301 and NPDES Permit No. PA0224251.

Findings

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

All water used for aggregate production and retained in the aggregate, used for the production of concrete, used in screening operations, used for equipment washing, trucked off

site, used for dust control, and evaporated from the three sediment ponds, two retention ponds, three infiltration basins, and the quarry sump is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be calculated by summing the daily consumptive water use from these categories of use.

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

Water will be withdrawn from Well 2 to provide water for sanitary purposes in the office/shop building, and for equipment washing. Commission staff recommends that the project sponsor install a meter to measure the quantity of water used for equipment washing.

The project sponsor will withdraw water from Well 3 for use at the concrete plant. Commission staff recommends that the project sponsor install a meter to measure the quantity of water used for concrete production, including water incorporated into product, trucked off site, and used for equipment washing.

The project sponsor will withdraw water from one or more water sources to provide dust control on haul roads on the property. Commission staff recommends that the project sponsor install a meter to measure the quantity of water used for dust control. The project sponsor could propose an alternative to metering to quantify the water used for dust control for Commission staff's review and approval.

Water evaporated from the three sediment ponds, two retention ponds, three infiltration basins, and the quarry sump 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 areas of each body of water upon completion of its construction.

The project sponsor has requested a consumptive water use approval of up to 0.091 mgd. Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.091 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 reports that the three wells 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. Commission staff recommends that the project sponsor install

metering on Wells 1, 2, and 3 to measure the groundwater withdrawal, and report these data to the Commission quarterly. If the combined groundwater withdrawal exceeds or is expected to exceed 100,000 gpd on a 30-day average (3,000,000 gallons in any consecutive 30-day period), the project sponsor must submit a groundwater withdrawal application to the Commission.

Under the terms of PADEP Noncoal Surface Mining Permit No. 21020301, mining on the site has been approved to a final elevation of 3 feet Mean Sea Level (MSL), provided that the project sponsor has complied with all special conditions and other requirements enumerated in the permit and PADEP determines there are no adverse impacts to the groundwater regime. Initially, mining is authorized to an elevation of 553 MSL, which is above the water table. Mining below this elevation must be authorized by PADEP on an incremental 50-foot, lift-by-lift basis until the final elevation is reached. Applications to proceed to the next 50-foot interval are required to be made to PADEP, and must include an updated groundwater report, as described in the surface mining permit. Commission staff recommends that the project sponsor submit a copy of the application to proceed to the next 50-foot interval to the Commission, in addition to the other agencies and organizations specified in the Noncoal Surface Mining Permit No. 21020301 Part B, 2(b).

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 0.550 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, to measure the daily quantity of water entering and leaving the quarry's portable and permanent processing plants, and used for concrete production, equipment washing, and dust control. The project sponsor may propose alternative accounting procedures to the Commission for staff review and approval.

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

daily quantity of water consumptively used shall be the quantity of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the three sediment ponds, two retention ponds, three infiltration basins, and the quarry sump. 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.

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

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

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 of water used for aggregate production and retained in the aggregate, used in screening operations, used for equipment washing, trucked off site, used for dust control, and evaporated from the three sediment ponds, two retention ponds, three infiltration basins, and the quarry sump. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

h. The project sponsor shall submit a copy of the PADEP application to proceed to the next 50-foot interval to the Commission, in addition to the other agencies and organizations specified in the PADEP Noncoal Surface Mining Permit No. 21020301 Part B, 2(b).

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

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

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

m. If the project sponsor fails to comply with 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.

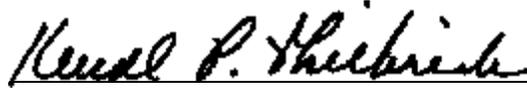
p. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

q. 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: September 8, 2004

A handwritten signature in black ink, reading "Kendl P. Philbrick", written over a horizontal line.

Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040910

Approval Date: September 8, 2004

DART CONTAINER CORPORATION

Groundwater Withdrawal (30-Day Average) of 0.367 mgd from
Wells 4, 5, 9, 11,12, 13, and 14,
and a Consumptive Water Use of Up to 0.330 mgd,
for Manufacturing of Food Service Products,
Upper Leacock 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 §803.43, relating to groundwater withdrawals. The Commission received the applications on June 28, 2001. Amended applications and additional documentation were received by the Commission on August 2, 2004.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of groundwater and the consumptive use of that water associated with the manufacture of food service products.

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.330 million gallons per day (mgd), and a groundwater withdrawal (30-day average) of 0.367 mgd from Wells 4, 5, 9, 11,12, 13, and 14.

Based on metered water use data for the years 2001 through 2003, the project sponsor calculates the project's maximum average 30-day consumptive water use to be 0.283 mgd, current peak-day consumptive water use to be 0.285 mgd, and maximum total groundwater withdrawal (30-day average) to be 0.367 mgd.

Operations began at the facility in 1965. The project sponsor manufactures numerous food service products at the facility, including polystyrene foam cups and plates, plastic lids, food containers, and cutlery.

Groundwater is the primary source of water for the facility. This docket approves the use of seven of the project's eight wells. Commission Docket No. 20040911 approves the use of the eighth well (Well 15). Three of the wells (Wells 4, 9, and 13) were operational prior to 1978, the effective date of Commission Regulation §803.43, relating to groundwater withdrawals.

Water from the wells is distributed to the various manufacturing buildings located at the facility and primarily used for processing, noncontact process cooling, and steam generation (for processing and building heating). A nominal amount of water also is incorporated into products.

The project sponsor currently utilizes a total of 11 meters at various locations at the facility to monitor the project's total water usage from the wells. In addition, Wells 11, 12, 13, and 14 are each equipped with a meter.

The following table summarizes information for the wells:

Well No.	Date of Initial Use	Total Depth (ft)	Casing Depth (ft)	Pump Capacity (gpm)	2003 Est. Average Withdrawal (mgd)
4	1968	400	50	50	0.040
5	1979	500	62	25	0.031
9	1974	95	62	150	0.081
11	1986	600	41	30	0.041
12	1986	600	61	30	0.041
13	1952	120	61	80	0.007
14	1995	530	63	150	0.040

The Upper Leacock Township water supply system provides water to the facility for sanitary purposes. The water supplied by Upper Leacock Township is metered and monitored monthly by the project sponsor.

All process wastewater generated at the facility is conveyed to collection ponds, which also allow solids, primarily tricalcium phosphate (TCP), to precipitate from some of the wastewaters. The process wastewater is discharged from the settling tanks through a metered outfall to the Upper Leacock Township sanitary sewer system. Sludge produced in the settling tanks is transported off site for disposal.

Sanitary wastewater from the facility is discharged through a separate outfall to the Upper Leacock Township sanitary sewer system.

Findings

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

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

The project sponsor obtains water from eight wells for its manufacturing operations, and currently monitors a total of 11 existing meters located at various locations within the facility to calculate the total water usage from the wells. The project sponsor also measures and records the quantity of process wastewater discharged from the facility to the Upper Leacock Township sanitary sewer system.

The project sponsor proposes that the facility's consumptive water use be calculated as the total metered groundwater supplied to the facility, minus the metered process wastewater discharged to the Upper Leacock Township sanitary sewer system. Commission staff concurs with this proposed accounting procedure, and recommends that the project sponsor record both the total metered inflow to the facility and outflow from the facility on a daily basis to determine the project's daily consumptive water use. All measurements should be recorded at approximately the same time each day.

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

The project sponsor has requested a consumptive water use approval of up to 0.330 mgd. Based on an analysis of water use data supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 15 percent above the current estimated peak-day use of 0.285 mgd. This will allow for an anticipated increase in water usage over the 25-year duration of this approval. Should the project's future consumptive water use exceed or be expected to exceed 0.330 mgd, the project sponsor must apply for a modification to this docket at that time.

Commission staff and the project sponsor have agreed to a pre-1971 consumptive water use of 0.077 mgd for the project and, for purposes of this docket, this quantity of water is considered "grandfathered" and is exempt from water compensation requirements.

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

requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water.

The project's Wells 4, 9, and 13 predate the 1978 effective date of Commission Regulation §803.43. However, withdrawals from these sources have increased and exceed the threshold specified in the regulation. Therefore, Commission staff finds that the withdrawal from the wells is subject to review and approval by the Commission.

Commission staff recommends that the maximum instantaneous rates of production from each of the seven wells should not exceed the current pump capacities installed in the wells, as shown in the table of Well Information.

Commission staff recommends that each well be separately metered. Currently, only Wells 11, 12, 13, and 14 are metered individually. The project sponsor should maintain existing metering and also install separate meters on Wells 4, 5, and 9.

The project sponsor requested a waiver from the Commission's pumping test requirements, based on the historic use of its wells with no known adverse impacts to other users or natural resources. In support of its request, the project sponsor submitted an analysis of the local hydrogeology and groundwater availability. Commission staff reviewed the information submitted by the project sponsor, and based on an evaluation of groundwater availability, Commission staff has concluded that the existing groundwater withdrawal may potentially impact the local surface-water and groundwater resources. Further, Commission staff recommends that the constant-rate pumping test requirement be waived because the performance of the testing would not adequately document those impacts. As an alternative to the pumping test, Commission staff recommends that the project sponsor initiate a study to investigate the adequacy of the groundwater source and prepare a groundwater monitoring plan to determine whether its water withdrawals impact surface-water or existing groundwater users.

As an interim measure, Commission staff recommends a total system withdrawal limit of 0.367 mgd, the requested quantity. The results of the required study and a plan to address any supply deficiencies should be submitted to the Commission within 12 months from the date of this approval. The plan shall be accompanied by the appropriate application(s) needed for the approval of any supplemental sources identified in the plan.

In the original groundwater withdrawal application submitted to the Commission, the project sponsor requested a groundwater withdrawal from Well 3. The project sponsor subsequently discontinued use of this well due to performance problems, and drilled Well 15 in 2002 as a replacement for Well 3. The groundwater withdrawal from Well 15 is approved in Commission Docket No. 20040911.

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

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's groundwater withdrawal (30-day average) of 0.367 mgd from Wells 4, 5, 9, 11, 12, 13, and 14, and the consumptive use of water of up to 0.330 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The daily quantity of water consumptively used shall be the quantity of water evaporated by the facility's cooling towers and from manufacturing processes and settling tanks, used for steam generation, and retained in finished products; to be calculated as the total metered groundwater supplied to the facility, minus the metered process wastewater discharged to the Upper Leacock Township sanitary sewer system. The project sponsor shall maintain metering on its eight wells and wastewater discharge, 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 metering on the Wells 4, 5, and 9, accurate to within five (5) percent, to measure its groundwater withdrawal.

d. The project sponsor shall keep daily records of the metered withdrawal and weekly water levels from Wells 4, 5, 9, 11, 12, 13, and 14. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. Quarterly monitoring reports are due within thirty (30) days after the close of the preceding quarter. The project sponsor shall maintain the existing meters, accurate to within five (5) percent, on its Wells 11, 12, 13, and 14.

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

e. The maximum instantaneous rates of production from the wells shall not exceed the current pump capacities installed in the wells, as shown in the table of Well Information.

f. The project sponsor shall develop a groundwater monitoring plan for the site to determine whether its water withdrawals impact surface-water or existing groundwater users. The groundwater monitoring plan shall be submitted within sixty (60) days for Commission staff's review and approval. The results of this study shall be submitted to the Commission within one (1) year from the date of this approval.

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 evaporated by the facility's cooling towers and from manufacturing processes and settling tanks, used for steam generation, and retained in finished products. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.077 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

i. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used in excess of the grandfathered quantity of 0.077 mgd during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (e) above.

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

k. If the Commission determines that the operation of the project's groundwater withdrawal from its wells 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.

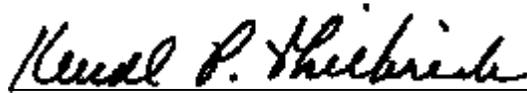
p. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

q. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 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: September 8, 2004

A handwritten signature in black ink, reading "Kendl P. Philbrick". The signature is written in a cursive style and is positioned above a horizontal line.

Kendl P. Philbrick, Chair
Maryland 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. 20040911

Approval Date: September 8, 2004

DART CONTAINER CORPORATION

Groundwater Withdrawal (30-Day Average) of 0.108 mgd from Well 15,
for Manufacturing Water Use,
Upper Leacock 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, and §803.43, relating to groundwater withdrawals. The Commission received the application on August 26, 2004.

Description

Purpose. The purpose of the application is to request approval for the groundwater withdrawal associated with the manufacture of food service products.

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

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 0.108 million gallons per day (mgd) of water from Well 15 for manufacturing water supply. Well 15 is part of a larger groundwater withdrawal system including Wells 4, 5, 9, 11, 12, 13, and 14 that are approved in Commission Docket No. 20040910.

Well 15 was drilled in 2002 as a replacement for Well 3, which had been experiencing performance problems. The project sponsor had previously applied for an approval for Well 3 on June 28, 2001, under the Commission's Compliance Incentive Program, and subsequently withdrew that request when Well 15 was installed. The well is constructed in the Cambrian-age Zooks Corner Formation to a total depth of 360 feet, and has a casing length of 120 feet. The submersible pump in Well 15 has a capacity of 75 gallons per minute (gpm), and a pump intake setting of 320 feet below ground surface (bgs). The well currently is not metered separately.

Based on metered water use data, the project sponsor calculates the project's total maximum groundwater withdrawal (30-day average) from its eight wells to be 0.367 mgd.

Pumping Test. The project sponsor, in support of the application for groundwater withdrawal, submitted an analysis of local hydrogeology and groundwater availability. Because Well 15 has been in service for several years, and because there are no reported incidents of impacts to adjacent water users, the project sponsor requested a waiver from the Commission's pumping test requirements.

Findings

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

The project sponsor has requested a groundwater withdrawal (30-day average) of 0.108 mgd from Well 15. Commission staff is recommending approval of the requested amount.

However, based on an evaluation of groundwater availability, Commission staff has concluded that the existing groundwater withdrawal may potentially impact the local surface-water and groundwater resources. Further, Commission staff recommends that the constant-rate pumping test requirement be waived because the performance of the testing would not adequately document those impacts. As an alternative to the pumping test, Commission staff recommends that the project sponsor initiate a study to investigate the adequacy of the groundwater source and prepare a groundwater monitoring plan to determine whether the water withdrawals impact surface-water or existing groundwater users.

Well 15 is part of a larger groundwater withdrawal system operated by the project sponsor and, pursuant to Commission Docket No. 20040910, is subject to a condition that requires that the project sponsor develop a groundwater monitoring plan for the site to determine whether the water withdrawals impact surface-water or existing groundwater users.

Further, Commission staff recommends that any withdrawal made pursuant to this docket should apply towards the total system withdrawal limit of 0.367 mgd, as required in Commission Docket No. 20040910. These existing requirements will be sufficient to address staff's concerns.

Commission staff recommends that the maximum instantaneous rate of production from Well 15 should not exceed 75 gpm, the current capacity of the pump installed in the well.

Commission staff recommends that the project sponsor install and maintain separate metering on Well 15.

While the project's water use has been in noncompliance with Commission regulations, there have been no adverse impacts associated with the groundwater withdrawal and the project sponsor has cooperated with Commission staff during its review. Commission staff does not recommend penalty for the prior noncompliance.

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.

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

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's groundwater withdrawal (30-day average) of 0.108 mgd from Well 15 is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on Well 15, accurate to within five (5) percent, to measure its groundwater withdrawal. The project sponsor shall keep daily records of the project's groundwater withdrawal and weekly water levels from the 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.

c. The maximum instantaneous rate of production from Well 15 shall not exceed 75 gpm, and any withdrawal made pursuant to this docket shall apply towards the total system withdrawal limit of 0.367 mgd, as required in Commission Docket No. 20040910.

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

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

f. If the Commission determines that the operation of the project's groundwater withdrawal from Well 15 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.

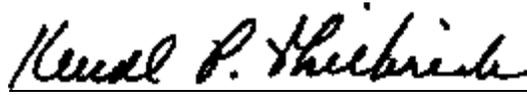
k. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

l. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004

A handwritten signature in black ink, reading "Kendl P. Philbrick". The signature is written in a cursive style and is positioned above a horizontal line.

Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20040912

Approval Date: September 8, 2004

KNOUSE FOODS COOPERATIVE, INC. PEACH GLEN PLANT

Consumptive Water Use of Up to 0.700 mgd,
for Fruit Processing,
Tyrone and Huntington Townships, Adams County, and
Dickinson Township, Cumberland County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 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. The Commission received the application on July 2, 2001.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with processing fruit products and bottling drink products.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050306, Bermudian Creek Watershed, Tyrone and Menallen Townships, Adams County, Pennsylvania.

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.700 million gallons per day (mgd). Based on metered water use data submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.290 mgd, and current peak-day consumptive water use to be 0.700 mgd.

Knouse Foods Cooperative, Inc. (Knouse Foods) operates seven processing/bottling facilities in three states, including three facilities in the Susquehanna River Basin. Operations at the Peach Glen facility began in 1943.

Knouse Foods' Peach Glen facility processes apples, cherries, peaches, blueberries, and frozen strawberries for the production of pie filling. The facility bottles gallon-size jugs of "Arizona Tea" and apple juice, and produces vinegar for bulk hauling. A specialty line produces apple slices.

Consumptive water use at the facility includes water incorporated into product, steam production for cooking and heating, evaporation by the facility's cooling towers, evaporation as a result of on-site spray irrigation of treated process wastewater, and any water trucked off-site for product shipping and wastewater disposal.

Water is supplied to the processing facility from nine wells, eight of which were in use prior to 1978. These wells also provide water to four private residences.

Water from the wells is pumped to a covered raw water reservoir with a capacity of 0.260 mgd. The water is treated to potable standards and stored in a finished water reservoir (floating cover) with a capacity of 2.2 mgd. A concrete tank with a capacity of 2.5 mgd is currently under construction to replace the existing 2.2 mgd reservoir. Water discharged from the finished water reservoir to the plant is metered.

The process wastewater generated at the facility is discharged through a metered outfall to one of the facility's three interconnected on-site wastewater ponds that have a total surface area of 3.4 acres. Disposal of wastewater is through an on-site metered spray irrigation system. Domestic wastewater from the facility is treated on-site using a subsurface treatment system.

Knouse Foods' Peach Glen facility is regulated by the Pennsylvania Department of Environmental Protection (PADEP). PADEP has issued PWS Permit No. 7010415 for the public water supply of the facility and PADEP Permit No. 0177201 for the wastewater disposal by spray irrigation.

Findings

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

All water incorporated into product, used for boiler make-up, evaporated by fruit processing operations, trucked off-site and evaporated by the facility's cooling towers and refrigeration is considered to be used consumptively. Consumptive water use as a result of spray irrigation of process wastewater is 85 percent of the total metered amount delivered to the spray system during the months of June through October, and 10 percent of the total metered amount, during the months of November through May.

The onsite wastewater storage ponds predate the Commission's consumptive water use regulation; therefore, the project sponsor is not required to provide compensation for the evaporative losses from these ponds.

Total water supplied to the facility and total discharge from the facility is metered. Total water delivered to the spray irrigation system is metered. Commission staff recommends that the project's total daily consumptive water use be calculated by subtracting the facility's metered discharge from total metered water supplied to the facility, plus the quantity consumptively used by the spray irrigation system. Rainfall collected in the wastewater storage ponds may be quantified on a daily basis, at the rate of 1 inch of rainfall equals 27,152 gallons per acre of

surface area of the wastewater storage pond. Total daily rainfall may be subtracted from the facility's consumptive water use on the day of the rain event.

The project sponsor has requested a consumptive water use approval of up to 0.700 mgd. Based on analysis of water use records supplied by the project sponsor and consideration of all of the processes that comprise the facility's consumptive water use, Commission staff is recommending approval of the requested quantity. Should the project's future consumptive water use exceed or be expected to exceed 0.700 mgd, the project sponsor must apply for a modification to this docket at that time.

The project sponsor was consumptively using water at the facility for processing fruit products before January 23, 1971, the effective date of Commission Regulation §803.42. Based on detailed records of water use at the facility supplied by the project sponsor, Commission staff determined pre-1971 consumptive water use to be 0.204 mgd. 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.

Of the nine wells used by the facility, eight were in operation prior to 1978. Knouse Foods added Well 13 in November 2001 to supplement the existing water supply. Based on historic water use data provided by Knouse Foods, Commission staff determined the peak 30-day average withdrawal to be 0.235 mgd prior to 1978. The current peak 30-day average withdrawal from all wells, based on supplied data, is 0.270 mgd, which is less than the threshold specified in Commission Regulation §803.43, relating to groundwater withdrawals. Should the project's future groundwater withdrawal exceed or be expected to exceed 0.335 mgd as a 30-day average, the project sponsor must apply for approval of its groundwater withdrawal at that time.

The project is located on the divide between the Bermudian Creek and Mountain Creek watersheds, in the extreme headwaters area. Seven of the nine currently active wells are located in a wellfield in the headwaters of the Mountain Creek Watershed, the remaining two wells are on the Bermudian Creek side of the divide. The upgradient watershed and groundwater basin providing water to the well field has an area of approximately 0.91 square miles. The well field draws water from one of the least productive aquifers in the Susquehanna River Basin, with well yields of a few tens of gallons per minute being exceptionally high. The 1-in-10-year average annual low-flow recharge available to the well field is estimated to be 0.141 mgd. The current peak 30-day average withdrawal from the well field is 0.270 mgd (188 gpm), or 191 percent of the available recharge during a 1-in-10-year average annual drought.

Based on the evaluation of groundwater availability, Commission staff has concluded that the existing groundwater withdrawal may potentially impact the local surface water and groundwater resources. Commission staff recommends that the project sponsor initiate a study to investigate the adequacy of the groundwater source and prepare a groundwater monitoring plan to determine whether its water withdrawals impact surface water or existing groundwater

users. The results of the required study and a plan to address any supply deficiencies should be submitted to the Commission within 12 months from the date of this approval. The plan shall be accompanied by the appropriate application(s) needed for the approval of any supplemental sources identified in the plan.

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

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

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

Compliance Incentive Program

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

Decision

The foregoing findings are hereby adopted and shall be incorporated into and made a part of this decision. The project's consumptive water use of up to 0.700 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 incorporated into product, used for boiler make-up, evaporated by fruit processing operations, trucked off-site, and evaporated by the facility's cooling towers and refrigeration, and water consumptively used as a result of spray irrigation of process wastewater; to be calculated by subtracting the facility's metered discharge from total metered water supplied to the facility, plus the quantity consumptively used by the spray irrigation system. The daily quantity of water consumptively used for spray irrigation of process wastewater is 85 percent of the total metered quantity delivered to the spray system during the months of June through October, and 10 percent of the total metered quantity delivered to the spray system during the months November through May. The project sponsor

shall maintain metering on the water supplied to the facility, the water discharge from the facility, and the water delivered to the spray irrigation system, accurate to within five (5) percent. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The project sponsor shall keep daily records of the 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.

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

e. The project sponsor shall develop a groundwater monitoring plan for the site to determine whether its water withdrawals impact surface-water or existing groundwater users. The groundwater monitoring plan shall be submitted within sixty (60) days for Commission staff's review and approval. The results of this study shall be submitted to the Commission within one (1) year from the date of this approval.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project in excess of the grandfathered quantity. The daily quantity of water consumptively used shall be the quantity of water incorporated into product, used for boiler make-up, evaporated by fruit processing operations, trucked off-site, and evaporated by the facility's cooling towers and refrigeration, and consumptively used as a result of spray irrigation of process wastewater. Payment amounts shall be calculated by applying this rate to the daily amount of water used consumptively by the project, less the grandfathered quantity of 0.204 mgd. If the daily grandfathered quantity exceeds the project's daily consumptive water use, that day's consumptive water use is considered to be zero. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

quantity of 0.204 mgd, during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated separately and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (f) above.

i. If the Commission determines that the operation of the project's groundwater withdrawal from its well field 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.

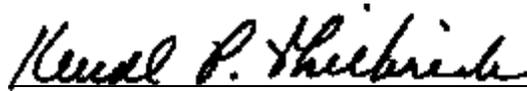
n. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

o. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20021210-3

Approval Date: December 12, 2002

Modification Date: June 12, 2003

Modification Date: August 14, 2003

Modification Date: September 8, 2004

THE CITY OF ABERDEEN

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

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the diversion of water from the basin, and §803.44, relating to surface-water withdrawals.

Description

Purpose. The Commission originally approved the project on December 12, 2002, and subsequently modified its approval on June 12, 2003 and August 14, 2003 as Docket No. 20021210-2 (docket). As approved, the project authorized the City of Aberdeen (City) to withdraw up to 3.0 million gallons per day (mgd) of water from Deer Creek, when available, and the consumptive use of up to 3.0 mgd of water from Deer Creek as an out-of-basin diversion to supply water for operations associated with the Aberdeen area of the Aberdeen Proving Ground (APG), a U.S. Army installation, subject to conditions enumerated in the docket.

Condition (f) of the original docket required the City to secure a backup water supply in the amount of the approval, specifying a deadline of December 31, 2003. The City, recognizing that it would be unable to secure adequate backup supply by the deadline, requested a 6-month extension of the deadline to June 30, 2004, which the Commission granted on December 11, 2003. The City subsequently requested a second extension of 3 months in order to complete a pending agreement for backup supply with Harford County. On June 9, 2004, the Commission adopted Resolution 2004-06, which extended the City's deadline to September 8, 2004, and required that the City both secure a backup supply of 1.5 mgd and submit an application for modification to the docket on or before June 30, 2004 as conditions of such extension.

Pursuant to an application request submitted by the City, this docket modification limits the City's withdrawals from Deer Creek for APG water supply to a quantity up to that provided by backup supplies or pursuant to backup supply agreement(s) adopted by the City, subject to the review and approval by the Executive Director, and subject to the 3.0 mgd withdrawal limit set forth in its original docket approval.

Findings

Commission staff performed analyses of historic flows on Deer Creek prior to issuance of the original docket and found that streamflows will occasionally be insufficient to maintain the recommended passby flow rate and meet APG's needs. Based on this finding, condition (f) of the docket required the City to develop and secure a backup supply or agreement for backup supply to the Deer Creek withdrawal for the amount of the approval, and specified that any backup supply or agreement for backup supply is subject to review and approval by the Commission.

On June 22, 2004, the City entered into a contract with Harford County for an allocation of 1.5 mgd for use as backup water supply for APG. Under the terms of the contract, the City agreed to limit its withdrawal from Deer Creek for APG supply to only that quantity with demonstrated backup supply, currently 1.5 mgd.

Commission staff has reviewed the contract, and find that it satisfies condition (f) of the docket, up to a quantity of 1.5 mgd. Staff recommends, and the City has requested, that the City limit its withdrawals from Deer Creek for APG to the amount of its in-place emergency backup capacity for APG, as approved by the Commission. Further, the City has certified to the Commission that the entire backup supply is dedicated first to meeting the needs of APG, prior to its use for any other purpose.

In the future, if the City modifies its backup supply contract with the county, or otherwise makes suitable arrangements for additional backup supply up to its docket limitation of 3.0 mgd, any of the foregoing should be subject to review and approval by the Commission. Consistent with Resolution 2004-06, Commission staff recommends that the Executive Director be authorized to make determinations on the adequacy and amount of available emergency backup capacity.

Commission staff recommends that all conditions in Commission Docket No. 20021210-2 that are not inconsistent with this docket action should remain effective.

The project is subject to Commission water conservation requirements, as per Commission Regulation §804.20(a). Commission staff recommends that the project sponsor reduce to a level of 20 percent or less the unaccounted-for water in the APG system by December 12, 2007, which is consistent with the prior approval.

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

also has provided all proofs of required notification, as called for in Commission Regulation §803.25.

The prior docket approval is effective until December 12, 2014. Based on Commission Regulation §803.30(a), 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. 20021210-2, as approved December 12, 2002, and subsequently modified on June 12, 2003, and August 14, 2003, is hereby modified as follows:

a. The City shall limit its withdrawals from Deer Creek to the amount of its in-place emergency backup capacity for APG as approved by the Commission, up to its docket limitation of 3.0 mgd and shall dedicate the entire backup supply first to meeting the needs of APG, prior to its use for any other purpose. Any backup supply or agreement for backup supply is subject to review and approval by the Commission. The Executive Director shall make all subsequent determinations on the adequacy and amount of available emergency backup capacity and notify the City in writing.

b. By its execution of the June 22, 2004 backup supply contract with Harford County, the City has satisfactorily demonstrated available backup capacity of 1.5 mgd, and shall limit its withdrawal from Deer Creek for APG supply to such quantity. The entire backup supply shall be dedicated first to meeting the needs of APG, prior to its use for any other purpose. This determination on the adequacy of backup capacity of 1.5 mgd is contingent upon said contract remaining in effect, without modification, unless approved as provided for hereunder.

c. The project sponsor shall keep daily records of any use of its backup water supply, and shall report the data to the Commission quarterly, and as otherwise required.

d. All other conditions in Commission Docket No. 20021210 not inconsistent herewith shall remain effective.

e. 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.

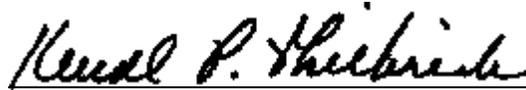
f. Based on Commission Regulation §803.30(a), this approval is effective until December 12, 2014. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by June 12,

2014, and obtain Commission approval prior to continuing operation beyond December 12, 2014.

g. 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: September 8, 2004

A handwritten signature in black ink, reading "Kendl P. Philbrick", written over a horizontal line.

Kendl P. Philbrick, Chair
Maryland Commissioner

Exhibits B and C are available upon request



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. 20040905

Approval Date: September 8, 2004

EPHRATA AREA JOINT AUTHORITY

Groundwater Withdrawal (30-Day Average) of 1.08 mgd from Well 4,
for Public Water Supply,
Borough of Ephrata, 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, 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 Lower Susquehanna River Subbasin, HUC 02050102, Conestoga River Watershed, Borough of Ephrata, Lancaster County, Pennsylvania.

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 1.08 million gallons per day (mgd) of water from Well 4. The well will be used as a source to supply water to a municipal water supply system that currently relies on Wells 1 and 2 (Commission Docket Nos. 19800205 and 19940706, respectively), and a surface water intake on Cocalico Creek (Commission Docket No. 19890305).

The Commission previously approved a withdrawal of 1.08 mgd from Well 4 in 1994 (Commission Docket No. 19940706), however, Ephrata Area Joint Authority (EAJA) modified the well in 2003 to increase the yield and well efficiency. Well 4, as modified, allows water to be drawn from deeper zones in the aquifer and its use may result in new potential impacts. Therefore, the Commission determined that the well should be evaluated as a new source.

Well 4 is located on the southwest side of the Borough of Ephrata, about 100 yards from an unnamed tributary to Cocalico Creek. The Akron Borough's Roland Park well field is located to the west, approximately 1,800 feet from Well 4.

Well 4 was drilled in 1986 to a depth of 656 feet. The well is drilled through the Cocalico Formation (phyllitic shale and siltstone) into carbonate bedrock. All of the water yielding zones in Well 4 are in the carbonate bedrock.

The well is constructed with a 12-inch-diameter inner steel casing to a depth of 113 feet below ground surface (bgs), a 16-inch diameter outer casing to a depth of 20 feet bgs, and a 12-inch diameter open rock borehole to a depth of 656 feet bgs.

Water quality testing documented levels of sulfate and total dissolved solids (TDS) that were above the secondary drinking water standards. The well was modified using grout and stone plugs in 1989, 1991 and 1999 in order to mitigate the water quality problems. After each modification, water quality improved for several months to a few years, but with some loss of yield and well efficiency.

The project sponsor removed all of the modifications in 2003 to regain the lost yield and well efficiency, and intends to treat the water for sulfate, TDS and hardness.

The public water supply system has an existing average daily demand of 1.76 mgd, and an existing maximum daily demand of 2.76 mgd. The average daily demand is projected to grow to 4.74 mgd by 2030. The project sponsor serves the Borough of Ephrata, Ephrata Township and Clay Township.

The wastewater generated throughout the water system distribution area is discharged to the sanitary sewer system and treated at Ephrata Wastewater Treatment Facilities 1 and 2, which discharge to the Cocalico Creek.

Pumping Test. A 48-hour constant-rate pumping test for Well 4 was conducted from December 21 to 23, 2003, with prior Commission approval. In addition to the pumping well, monitoring included five residential/commercial wells, nine municipal wells (five Akron Borough wells and four EAJA wells), an Akron Borough water supply spring (SP-1), five stream locations (using weirs or flumes, and piezometers) and one wetland (piezometers).

Coordination. The project sponsor received approval from the Pennsylvania Department of Environmental Protection (PADEP) for the rehabilitation work and pumping test. PADEP's existing Public Water Supply (PWS) permit for Well 4 authorizes a permitted rate of 750 gpm. The project sponsor is not requesting an increase above PADEP's permitted rate. Therefore, PADEP's existing permit is still valid. The project sponsor is planning to submit a PWS permit application to PADEP in the future to address water quality issues. Commission staff has coordinated with the PADEP's Southcentral Region Office during review of the project, and PADEP staff has reviewed this docket for consistency with its requirements.

Findings

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

Pumping test results indicate that Well 4 draws water from the Manheim-Lititz-Ephrata carbonate aquifer in the large valley to the west-northwest of Well 4. Pumping at an average rate of 750 gallons per minute (gpm), total drawdown in Well 4 was approximately 134 feet. Three wells in this area exhibited drawdown that ranged from approximately 1.5 to 6.6 feet. Commission staff finds that no adverse impact to these wells will result from the operation of Well 4 at the requested withdrawal rate.

Well 4 is located on the edge of a carbonate aquifer flow system having an area of approximately 50 square miles. Based on the groundwater availability analysis performed by the project sponsor and other data reviewed by the Commission, Commission staff finds that the resource is sufficient to support the requested withdrawal without adverse impacts to the regional aquifer or lowering the local water table.

The area contributing water to the well, as delineated by the consultant, includes an approximately 4,000-foot reach of Cocalico Creek north of Well 4. Commission staff's analysis indicates that the loss of streamflow caused by the proposed withdrawal represents less than 10 percent of the 7-day 10-year low flow (Q7-10 flow). Further, the project sponsor's wastewater treatment plant outfall returns treated water to Cocalico Creek upstream of the losing stream reach. Commission staff concludes that the Well 4 withdrawal will not adversely impact flow or habitat in Cocalico Creek.

The Borough of Akron (Akron) expressed concerns about possible adverse effects to their Roland Park well field from the proposed withdrawal. Commission staff considered the potential for adverse impacts to Akron during its review of the pumping test plan and required additional monitoring to address these issues. Streamflow and water levels in the shallow aquifer monitored at two locations between Well 4 and Akron's well field, and these were not impacted during the Well 4 test. Water levels in five of Akron's wells and the flow in the Akron Spring were unaffected by the Well 4 testing.

Test-induced drawdown occurred only in wells to the west and north of Well 4, in the Manheim-Lititz-Ephrata carbonate aquifer. No drawdown was observed in wells drilled in the Cocalico Formation or New Oxford Formation to the south and east. These results indicate that the phyllitic shales and siltstones of the Cocalico Formation form a low permeability barrier between Well 4 and Akron's well field. The Cocalico Formation is one of the lowest permeability aquifers in the Susquehanna River Basin, so this result is not unexpected. Further, the results of the pumping test suggest that the fault that passes from the Manheim-Lititz-Ephrata carbonate aquifer, past Well 4, through the Cocalico Formation hills and into Akron's well field is not a high permeability path through the Cocalico Formation hills.

Likewise, Commission staff finds that precipitation did not interfere with the evaluation of the test results. There were 0.61 inches of precipitation four days before the start of pumping,

and 0.59 inches of precipitation starting 11 hours after the completion of the pumping phase, and extending over an approximately 30-hour period. The events are discernable as very subtle water level rises of only a few tenths of a foot in the other monitored wells and neither event is discernable in the hydrograph for Well 4. Although precipitation was above normal throughout 2003, it was near normal for the three weeks prior to the pumping test. Groundwater levels were either stable or in recession prior to the start of testing. A minor rise in groundwater levels occurred at some observation points near the time of the start of pumping, due apparently to slight recharge from snowmelt. However, this fluctuation was minor and did not interfere with interpretation of the test data.

Based on these results, Commission staff concludes that the operation of Well 4 will not impair or cause a loss a capacity to the wells and spring in the Akron Borough's Roland Park well field.

Commission staff recommends approval of a 30-day average withdrawal of 1.08 mgd from Well 4. Commission staff recommends approval of a peak instantaneous pumping rate of 750 gpm for Well 4, the pumping rate used during the pumping test.

Commission staff recommends that the project sponsor keep daily records of the metered withdrawal and weekly recording of the water level, and these data should be submitted to the Commission annually.

A projection of the drawdown for a period of 90 days with no recharge indicates a pumping water level of approximately 204 feet, dewatering 7 of 15 logged water-bearing zones. However, the well log indicates that approximately 82 percent of the yield is obtained from the 4 water-bearing zones below 500 feet. Therefore, staff recommends that the pumping water level not be allowed to exceed 500 feet to prevent the collapse of the water-bearing zones.

The project is subject to the Commission's water conservation requirements, as per Commission Regulation §804.20(a). The water system is 100 percent metered, which is in compliance with this regulation, and the system had an unaccounted-for water loss of 14 percent in 2002, which is less than the 20 percent maximum set forth in Commission Regulation §804.20(a)(1).

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

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 1.08 mgd (30-day average) from Well 4 is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

b. Within sixty (60) days from the date of this approval, the project sponsor shall install and maintain metering on Well 4, 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 4. 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 Commission reserves the right to inspect all measurement equipment and audit all measurement records.

c. The maximum instantaneous rate of production from Well 4 shall not exceed 750 gpm.

d. The pumping water level in Well 4 shall not exceed 500 feet bgs.

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

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

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.

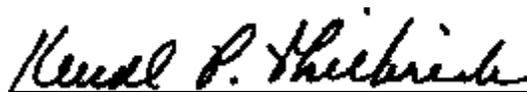
k. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

l. This approval is effective until September 8, 2029. The project sponsor shall submit a renewal application by March 8, 2029, and obtain Commission approval prior to continuing operation beyond September 8, 2029.

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

By the Commission:

Dated: September 8, 2004



Kendl P. Philbrick, Chair
Maryland Commissioner

Exhibits E and F are available upon request



Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed

2005 COMMISSION MEETINGS

March 9, 2005

1:00 p.m. – Scranton, Pa.

June 8, 2005

1:00 p.m. – Harrisburg, Pa.

September 14, 2005

8:30 a.m. – Cooperstown, NY

December 14, 2005

8:30 a.m. – Harford Co., Md.

RESERVED VIDEO OR TELECONFERENCE DATES

February 9, 2005

October 12, 2005