

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



January 24, 2003

TO ALL CONCERNED:

At the December 12, 2002 meeting, the draft minutes of the October 10, 2002 Commission meeting were approved as written. Please attach this notice to your copy of the October 10, 2002 minutes.

- DRAFT -

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

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION**

December 12, 2002
#2002-11 & 12

The meeting was held at the Eden Resort Inn, Rt. 272 (Oregon Pike) and Rt. 30, Lancaster, Pa. Chairman Scott Foti called the meeting to order at 8:35 a.m.

ROLL CALL

Commissioners Present

Mr. Scott J. Foti, Regional Flood Control Eng.
N.Y. DEC, Region 8
Mr. John T. Hines, Acting Deputy Secretary for
Water, Pa. Dept. of Environmental Protection
Mr. Matthew G. Pajeroski, Chief
Water Rights Division, Md. Dept. of the
Environment

**Alternate Commissioners
and Advisors Present**

Staff Present

Mr. Paul O. Swartz, Executive Director
Mr. Thomas W. Beauduy, Deputy Director
Mr. David W. Heicher, Chief
Watershed Assessment & Protection Division
Mr. Glen R. DeWillie, Chief
Water Resources Management Division
Mr. Andrew J. Gavin, Section Chief, Restoration
& Protection

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

Also Attending

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

INTRODUCTION/WELCOME

Chairman Foti introduced the members of the Commission and the Executive Director. The federal government was not represented at this meeting.

MINUTES OF OCTOBER 10, 2002 COMMISSION MEETING

On a motion by Commissioner Hines, seconded by Commissioner Pajerowski, the minutes of the regular business meeting of October 10, 2002, were unanimously adopted as written.

PRESENTATIONS

a. Water Budget Project, Lancaster County, Pa.

David Heicher, SRBC Chief of the Watershed Assessment and Protection Division, reviewed plans for the Commission, in partnership with the Lancaster County Conservation District and five watershed groups, to complete a water budget analysis in an area of northern Lancaster County, Pa. Communities to be covered include Manheim, Lititz, Denver and Ephrata in the Chickies Creek, Cocalico Creek and Hammer Creek watersheds. The Delaware River Basin Commission is also providing technical assistance on the development of an analysis model based on its experience in the DRBC special ground-water protection area in southeastern Pennsylvania.

The purpose of the analysis is to identify areas where the demand for water may exceed supply. The identification of impact areas and natural resources areas with recommendations on restoration and protection strategies will be documented in a resource protection plan. Local government officials would then be able to use the resource protection plan in their planning activities. The study will also assist SRBC in assessing quantitative ground-water withdrawal limits for the protection of all users.

As with any budget analysis, the study will consider both inputs and outputs to surface and ground waters as it attempts to locate potential trouble spots. The components of the study include outreach to the public and a local advisory group, data collection and analysis, resource protection plan development and a workshop session.

Commissioner Pajerowski commented that Maryland has a great deal of interest in the water budget process and will be closely following the outcome of the study.

b. Panel Discussion

The Commission convened a panel session entitled, "Water Supply: Meeting the Region's Future Needs Through Proper Planning." Panelists included John Brosious of the Pennsylvania Municipal Authorities Association; Virginia Brady, Chair, Pequea Township Board of Supervisors; Brent Landis, Lancaster County Chamber of Commerce and Industry;

Mary Frey, Lancaster County Planning Commission; and Jeanne Sonntag, League of Women Voters. Don Robinson, of the Lancaster County Conservation District, moderated the panel.

The panelists addressed a number of important water supply planning issues, including what activities are underway to ensure that water supplies match demand, what measures should be taken by government when demands exceed supply, and what is being done at the local government level to assess the adequacy of water supplies.

Some of the issues identified by panelists were: 1) the impacts of removing water from a source and shipping it off to a community in another watershed; 2) the difficulty of protecting water supply sources at the local government level; 3) the importance of educating the public, particularly young people, on the importance of water issues and involving them in water issues as stakeholders; 4) the importance of establishing a local ground-water monitoring network in Lancaster County; 5) the need to keep farming in Lancaster County a viable economic activity in order to help preserve farmland and open space; and 6) the need to connect land use planning with water supply planning. Suggestions for better water management included: 1) stronger water conservation efforts; 2) source water protection; 3) matching water supply availability to growth; 4) infiltration of storm water; 5) a better ground-water monitoring network; 6) more citizen involvement through local watershed organizations; and 7) public education.

c. Presentation to Irene Brooks

The Commission made a special presentation honoring Irene Brooks, who just retired as Pennsylvania's Alternate SRBC Commissioner. Irene had also served as the head of Pennsylvania's Office of River Basin Cooperation. The Executive Director listed four valuable assets brought to the Commission's deliberations by Irene Brooks—coordination, cooperation, wise counsel and experience. SRBC Communications Director Susan Obleski also recalled how Irene had broached the idea of an SRBC Community and Watershed Liaison person, a position that has proven invaluable to the Commission in its promotion of streamside cleanup projects, community outreach and watershed organizations.

Chairman Foti noted that Ms. Brooks had brought a new perspective to the Commission's deliberations from her experience as a U.S. and Pennsylvania Commissioner for the Delaware River Basin Commission. Commissioner Hines added that it was tough to say goodbye to Ms. Brooks, who had been his mentor in the Office of River Basin Cooperation.

d. Hydrologic Conditions Report

SRBC Water Resources Management Chief Glen DeWillie reported on current hydrologic conditions. Even though precipitation in the Susquehanna River Basin was 0.13 inches below normal for the month of November, it was distributed fairly evenly over the month and continued to maximize the drought recovery that had begun in earnest in October. Drought indicators are generally responding well to this precipitation. For the Susquehanna Basin stations, flows are close to or even slightly above normal for this time of year in the Upper Susquehanna Basin and on the main stem. Nevertheless, the West Branch basin and several Lower Susquehanna tributaries are still below the 25th percentile flow value for this time of year.

Average monthly ground-water levels for November 2002 indicate that water levels increased in 17 of 18 USGS observation wells in the Pennsylvania portion of the Susquehanna Basin. Five of the 18 are still below seasonal averages.

Drought status designations in several basin counties have been lifted or eased as a result of recent rains. For the latest information on drought status, please visit www.srbc.net.

e. Source Water Protection/Early Warning System

Mr. Andrew Gavin, Section Chief, Restoration & Protection, SRBC Watershed Assessment and Protection Division, presented information on the Commission's Source Water Protection and Early Warning System programs.

As part of the 1996 Safe Drinking Water Act reauthorization, Congress mandated the development of methods for assessing raw water sources for public drinking supplies. The goal of this legislation is to assess the drinking water sources of 50 percent of the nation's water supply systems by the year 2005.

Source water assessment is the collection of information from pre-existing data sources to better understand the potential pollution threats to public water supply systems. Factors considered include location of contaminant inventories, how these contaminants behave in the environment, their persistence, their quantity, the local geology, soils, land use and the time of travel in local streams. Once assessment is complete, contaminant sources are listed and ranked and susceptibility ratings are made. A meeting is held to present information to the public and a final report is made to EPA.

The Early Warning System work is an outgrowth of the Source Water Protection Program. The purpose of the program is to provide early warning to public water supply systems of adverse water quality conditions approaching their intakes. The aim is to detect contaminants before they are withdrawn, and thereby protect human health and water treatment systems. It is an appropriate task for the Commission because it involves establishment of communication links across state lines.

ACTION ITEMS

a. Contracts/Grant Approvals

Unassessed Waters & Acid Mine Drainage

Mr. Heicher asked the Commission to ratify a grant contract for the Commission to continue its work in assessing Pennsylvania streams for water quality and collecting water quality samples to assist in the development of abandoned mine drainage total maximum daily loads. Pa. DEP would contribute \$151,842 to this program with no required match by the Commission. The grant scored a ten out of ten on SRBC's grant evaluation form. On a motion

by Commissioner Pajerowski, seconded by Commissioner Hines, the Commission unanimously ratified this grant contract.

Renovation of Rental Space – Headquarters Building

In accordance with the requirements of the Susquehanna River Basin Compact, Chief Administrative Officer Duane Friends requested that the Commission approve an expenditure of up to \$10,000 to renovate the rental space on the first floor of the Commission's Headquarters Building. The district office of Congressman Tim Holden will be occupying this rental space. A two-year lease will be executed with an option for up to four more years. The renovations do not involve major structural changes and will be useable by any future tenant. Also, the renovations will be compatible with any future renovations undertaken on the Headquarters Building.

On a motion by Commissioner Pajerowski, seconded by Commissioner Hines, the Commission unanimously approved this expenditure.

b. Public Hearing–Lake Augusta Fish Passageway/Project Review

The Commission convened a two-part public hearing. Part I of the hearing dealt with the approval and inclusion in the SRBC Comprehensive Plan of the Lake Augusta Inflatable Dam Fish Passageway near Sunbury, Pa. Part II covered project dockets before the Commission for review and approval.

Chairman Foti provided some background information on the comprehensive plan and the requirements of the Susquehanna River Basin Compact. Projects of the member jurisdictions significantly affecting the water resources of the basin must be included in the Comprehensive Plan under Sections 12.1 and 12.2 of the compact, and must also be approved under Section 3.10 of the compact.

The Chairman then introduced Richard Cairo, General Counsel and Secretary to the Commission. Mr. Cairo announced that, in accordance with the requirements of the compact, notice of this public hearing had been published in the Sunbury Daily Item on November 18, 2002. He further indicated that the completion of a fish passage facility at the Lake Augusta Inflatable Dam site was in keeping with provisions in the current comprehensive plan calling for restoration of runs of migratory fish, such as the American shad through, among other things, the construction of fish passage facilities. Construction of a fish passageway at Sunbury, Pa. would remove the last major hurdle to fish migration on the Susquehanna and allow American shad to reach the New York portion of the basin.

Mr. DeWillie reported that staff evaluated the proposed fish passage facility for any adverse hydraulic impacts on the Susquehanna River. No such impacts were found and the staff was therefore supportive of the project and its objectives. Mr. Heicher added his endorsement of the project and noted that his staff was pleased to have participated in the Shikellamy Shad Advisory Committee.

Chairman Foti commented that, just this past spring, hundreds of thousands of shad fry had been released in the Upper Susquehanna and Chemung Subbasins with the hope that the tiny fish will become imprinted, make their way down the river and then return someday to New York as spawning adults. New York has eagerly awaited this day and is grateful for the efforts that have been made to open up the entire river system to shad migration. Preliminary steps have been taken to investigate funding sources and design types for fish passage at low head dams on the Chemung and Susquehanna Rivers in New York.

On a motion by Commissioner Hines, seconded by Commissioner Pajerowski, the Commission unanimously adopted a resolution (Exhibit A) including the Lake Augusta Inflatable Dam Fish Passage way in the SRBC Comprehensive Plan and approving the project pursuant to Section 3.10 of the Compact. The Commission then proceeded to Part II of the public hearing on project review.

Mr. DeWillie first provided some background information on the Commission's review authority, water use regulations and procedures. The purposes of these regulations are 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, provision of storage water and payment into the SRBC Water Management Fund to enable purchase and water storage for release during low flow periods. Unless otherwise noted, projects described today have chosen payment as their compliance method.

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

The dockets presented included the following:

- City of Aberdeen (Exhibit B1)
- Cortlandville Town, Well No. 2 (Exhibit B2)
- Cortlandville Town, Lime Hollow Well No. 7 (Exhibit B3)
- Coon Industries, Inc. (Exhibit B4)
- Central Builders Supply Co., Northumberland Sand & Gravel Processing Plant (Exhibit B5)
- Central Builders Supply Co., Montandon Sand & Gravel Processing Plant (Exhibit B6)
- Harrisburg Authority (Exhibit B7)
- Dairy Farmers of America (Exhibit B8)
- Lancaster Leaf Tobacco Co. of Pa., Inc. (Exhibit B9)

*Docket decisions not included with minutes. However, they are available upon request and at www.srbc.net.

All dockets and any accompanying written comments from the public were provided to the Commission in advance of this meeting. Of the original 10 projects scheduled for action at the Commission meeting, the staff was recommending the tabling of one project, the Dial Corporation. The company had requested this action to allow it to consider other methods of

compliance with the SRBC consumptive use regulation. Deputy Director Thomas Beauduy presented the proposed City of Aberdeen docket¹ and Mr. DeWillie presented the remaining eight dockets.

Mr. Beauduy explained that the City of Aberdeen has taken over the Aberdeen Proving Ground (APG) water supply system and Deer Creek intake under a contract with the U.S. Army. In connection with this takeover, the City had submitted two applications to the Commission.

The first application is for the continuing supply of water to APG, which is the one before the Commission at this meeting. If approved, the City would withdraw as much as 3.0 mgd from Deer Creek to supply APG and provide itself with a source of water under certain stipulated emergency conditions. A second application is to supply the City itself. This application would be brought before the Commission at a later date and the record remains open for comments on that second application.

Under the first application, water withdrawn from Deer Creek will be transmitted by pipeline to the Chapel Hill Water Treatment Facility, put into the APG water distribution system and, after wastewater treatment, discharged to Dipple Creek, a tributary of Chesapeake Bay. The water does not return to the Susquehanna basin and the withdrawal, therefore, constitutes a diversion of the river basin's waters, requiring approval under Section 3.10 of the Compact.² However, because APG made a diversion for the same public water supply purposes, the portion of the withdrawal historically used by APG is a "grandfathered" consumptive use and not subject to the Commission's consumptive use regulation.

Mr. Beauduy went on with a detailed description of the conditions governing withdrawals from Deer Creek under this docket. Whenever withdrawals exceed 10 percent of the Q7-10 flow, a pass-by requirement is automatically triggered. Between April 1 and June 30, the City would have to allow not less than 30 percent of average daily flow (ADF) to pass by the intake. This requirement would be reduced to 20 percent of ADF at all other times of the year. If the pass-by requirement could not be met, all withdrawals would have to cease. Both the Maryland Department of the Environment and the Maryland Department of Natural Resources have expressed no objection to this protection standard.

It is quite clear from the hydrologic data that flows in Deer Creek will not always be sufficient to maintain these pass-by requirements and sustain the City's withdrawal. Therefore, it is imperative that the City arrange for other backup sources.

As mentioned above, this first application provides for emergency use of this withdrawal by the City under certain stipulated conditions. The City previously had such an arrangement

¹ A written transcript of the portion of the public hearing dealing with the City of Aberdeen has been prepared and is available for the cost of reproduction. Complete details on the City of Aberdeen docket approval are also available in the docket itself, which is attached to and made a part of these minutes.

² The Compact requires a public hearing upon twenty days notice for the approval of any project involving a diversion. Therefore, a public notice of this hearing was published in the Aegis Newspapers of Harford County, Maryland on November 22, 2002.

with APG when the U.S. Army ran the water supply system. Therefore, this emergency use would also be “grandfathered” under the SRBC consumptive use regulation.

The need for this emergency use is linked mainly to the detection of perchlorate contamination in four of the City’s ten operating supply wells. The City has no treatment system in place capable of removing this contaminant. In light of this potential contamination threat, the SRBC staff acknowledges that excess capacity in APG’s Deer Creek supply over the next several years will allow emergency use by the City on an interim basis.

The conditions for emergency use include: 1) a directive from MDE ordering the City to cease or limit its withdrawals from its wells due to contamination and the City cannot, therefore, meet its daily demand (or for periods not exceeding 72 hours, a mechanical or other unforeseen circumstance beyond the City’s control that prevent it from meeting its daily demand from its well field); 2) notice to the Commission within 24 hours of the commencement of an emergency transfer identifying the nature of the emergency, its expected duration and the anticipated amount of water to be transferred from the APG system; 3) written permission from APG provided to the Commission until a joint use agreement is executed with APG; 4) full utilization of the water supply available under the City’s existing 0.5 mgd water supply agreement with Harford County; 5) implementation of emergency use restrictions in both the City and APG systems consistent with the Maryland Drought Management Plan; and 6) a duration of not more than six months unless extended by the Commission at its discretion upon the presentation of a plan to mitigate the contamination problem.

During such an emergency, to the extent that the amount of the withdrawal from Deer Creek was insufficient to meet the demands in both the City system and the APG system, the City could request a withdrawal of up to an additional 1 mgd, allowing a maximum 4.0 mgd withdrawal.

Chairman Foti reiterated two points for the hearing record. First, the commissioners had received and reviewed all copies of the correspondence regarding the City’s first application to the Commission. Second, the City’s withdrawal under this first application would have no added impact on Deer Creek. In fact, with the pass-by requirements contained in the docket, the impact on the stream would be less than the current withdrawal for APG. Mr. Beauduy confirmed that the stream would have better protection under the proposed docket conditions, though the incidents of emergency withdrawals might increase if the perchlorate contamination worsens.

Commissioner Pajerowski pointed out that approval of this application would be consistent with a previously issued Maryland appropriations permit for APG and with the appropriations permit that the state contemplates issuing to the City to continue that use. From Maryland’s point of view, it therefore makes sense to allow this use to continue with a Commission approval.

Aberdeen Mayor Douglas Wilson addressed the Commission. He stressed the importance of the Commission’s approval of this application to supply APG. For the Army to keep APG as a vital defense resource, a reliable source of water would be needed. The City also hoped to attract a General Dynamics assembly facility to Aberdeen for a Marine amphibious

assault vehicle. Since taking over the water system, the City had made a number of transmission system improvements resulting in a daily savings of approximately 250,000 gpd. The docket conditions proposed by staff appear workable.

He added a few words on the second application that he hoped would be reviewed by the Commission at its February 2003 meeting. He underscored the importance of securing a reliable source of water for the City to address the growing perchlorate problem.

Mr. Jim Stuhltrager, a staff attorney with the Mid-Atlantic Environmental Law Center and representing the Deer Creek Watershed Association, raised concerns about the adequacy of Deer Creek as a source, the compatibility of an emergency use of Deer Creek with the Deer Creek Scenic River Plan, and impacts on the Maryland Darter. Mr. Beauduy reiterated the fact that the creek is more than adequate for emergency use. On the question of compatibility with the Scenic River Plan, the State of Maryland has made it clear that water withdrawal for public water supply is a compatible use. The Commission normally relies on a member jurisdiction's interpretation of its own law.

Mr. DeWillie responded to the Maryland Darter issue. Though this species had been found in Deer Creek at one time, there has been no recent confirmation of its presence. The SRBC staff carefully assessed the biological needs of Deer Creek, consulting with state agencies and Dick St. Pierre, a noted fisheries biologist with the U.S. Fish and Wildlife Service. The pass-by conditions being included in the proposed docket are designed to protect all species currently living in Deer Creek.

Discussion continued briefly on mitigation and remediation plans addressing the perchlorate problem in the City's wells. Commissioner Pajerowski noted that MDE is working with the City and APG to move eventually toward a remediation plan. Mr. Beauduy added that the issue of mandating any kind of a remediation requirement for the City is beyond the purview of the SRBC. It is a safe drinking water issue that is under the authority of the state government.

The commissioners suggested three minor amendments to the docket, including: 1) making it clear in Decision paragraph (h) that the total withdrawal under emergency conditions could be up to an additional 1 mgd; 2) modification of a sentence on page 5 of the docket making it clear that Md. DNR and MDE had reviewed the proposed use under this docket and found that it is not in conflict with the Deer Creek Scenic River Plan; and 3) the addition of the words "as a result of contamination" to Decision paragraph g(1)(a).

On a motion by Commissioner Pajerowski, seconded by Commissioner Hines, the Commission unanimously adopted the staff recommendations for the City of Aberdeen docket (Exhibit B1), as amended.

Mr. DeWillie then continued with a brief description of the remaining projects before the Commission. On a motion by Commissioner Hines, seconded by Commissioner Pajerowski, the Commission unanimously adopted the staff recommendations for all of the remaining dockets (Exhibits B2-B9), including the tabling of the Dial Corporation docket.

PUBLIC COMMENTS

No public comments were offered.

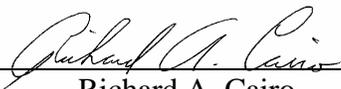
ADJOURNMENT

There being no further business before the Commission, Chairman Hicks adjourned the meeting at approximately 12:20 p.m.

NEXT MEETING

The next regular meeting of the Commission is tentatively scheduled for February 6, 2003 in Harrisburg, Pa.

Date Adopted



Richard A. Cairo
General Counsel/Secretary to the Commission

RESOLUTION NO. 2002-11

A RESOLUTION of the Susquehanna River Basin Commission including the proposed migratory fish passageway for the Lake Augusta Inflatable Dam on the Susquehanna River near Sunbury, Northumberland County, Pennsylvania, in the Commission's Comprehensive Plan and approving it under Section 3.10 of the Susquehanna River Basin Compact.

WHEREAS, the Pennsylvania Department of Conservation and Natural Resources, with assistance from the Pennsylvania Fish and Boat Commission and other members of the Shikellamy Shad Advisory Committee, has designed and proposes to construct a vertical slot, migratory fish passageway for the Lake Augusta Inflatable Dam on the Susquehanna River near Sunbury, Northumberland County, Pennsylvania; and

WHEREAS, the Susquehanna River Basin Commission (the "Commission"), in accordance with Sections 3.3 and 14.1 of the Susquehanna River Basin Compact, P.L. 91-575, had formulated and adopted a "Comprehensive Plan for the Management and Development of the Water Resources of the Susquehanna River Basin (the "Comprehensive Plan"); and

WHEREAS, Part II, Section II of the Comprehensive Plan, Program Areas, Objectives and Goals, calls for the restoration, through the use of fish passage facilities and other means, the migratory fishery resources of the Susquehanna River system; and

WHEREAS, Section 12.2 of the Susquehanna River Basin Compact provides that no expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any member state project or facility unless it first has been included by the Commission in the Comprehensive Plan; and

WHEREAS, Section 3.10(2)(iv) of the Susquehanna River Basin Compact further requires Commission approval of any project that has been included in the Comprehensive Plan or that would have a significant effect upon the Plan; and

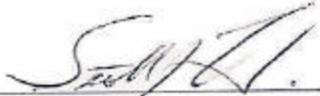
WHEREAS, Commission staff has reviewed the said fish passageway structure for possible adverse hydraulic impacts or potential flood impacts to the Susquehanna River and finds that the impacts are negligible.

NOW THEREFORE BE IT RESOLVED THAT:

1. The said vertical slot, migratory fish passageway for the Lake Augusta inflatable dam on the Susquehanna River near Sunbury, Northumberland County, Pennsylvania is hereby included in the Comprehensive Plan, Section IV, Early Action Program and approved pursuant to Section 3.10(2)(iv) of the Susquehanna River Basin Compact.

2. This Resolution shall be effective immediately.

Date: December 12, 2002



Scott J. Foti, Chairman

Docket No. 20021210
Approval Date: December 12, 2002

THE CITY OF ABERDEEN

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

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, §803.42, relating to the diversion of water from the basin, and §803.44, relating to surface-water withdrawals. The Commission received the consumptive water use and surface-water withdrawal applications on May 21, 2001. The project sponsor submitted additional information relating to the out-of-basin diversion to the Commission on November 19, 2001, June 10, 2002, October 22, 2002, and November 15, 2002.

Description

Purpose. The purpose of the application is to request approval for the withdrawal of water from Deer Creek and diversion of water from the basin to supply water for operations associated with the Aberdeen area of the Aberdeen Proving Ground (APG), a U.S. Army installation. Under a separate application, the City also is proposing to withdraw additional water from Deer Creek to use conjunctively with its existing well field. Designs are underway for improvements and upgrades to the intake and treatment facilities. This docket is limited to the application requesting approval to supply the APG system.

Location. The Deer Creek intake is located in the Lower Susquehanna Subbasin, HUC 02050306, Deer Creek Watershed, near the Town of Darlington, Harford County, Maryland. APG is located in the Chesapeake Bay watershed outside of the Susquehanna River Basin, in and adjacent to the City of Aberdeen (City), Harford County, Maryland.

Background. Since the 1940s, the Department of the Army (Army) has operated two withdrawals from Deer Creek in Harford County; one near Churchville for supply to the Churchville Test Track, and the other near Darlington for supply to the Chapel Hill Water Treatment Plant, which serves APG.

In 1996, the Department of Defense initiated a program to privatize utility systems on military bases and awarded the privatization contract for APG to the City of Aberdeen (City) in 1999. Ownership of the Darlington intake and Chapel Hill treatment facilities was transferred to the City in 2000. The City proposes to continue using the existing Darlington intake and Chapel Hill treatment plant to serve APG. The withdrawal at Churchville was not privatized and will continue to be operated by the Army.

The Army has operated the two Deer Creek withdrawals under a Water Appropriation and Use Permit (HA78S028(04)) first issued by the Maryland Department of the Environment (MDE) in 1979. Prior to that time, federal facilities claimed exemption from state permitting requirements. The most recent permit issued to APG expired in February 2001, and has not been renewed due to the transfer of ownership to the City. The City continues to operate under the APG permit while its new permit application is pending with MDE to operate the Darlington intake. The permit was issued for a combined withdrawal at the Churchville and Darlington facilities, totaling a daily average of 3.5 million gallons per day (mgd) and a maximum daily withdrawal of 6.0 mgd.

Project Features. The privatization contract requires the City to supply APG with up to 3.0 mgd of water on a peak usage day and 1.8 mgd on an average annual basis. APG currently uses an average of 1.50 mgd, with a peak of 2.80 mgd. The City has requested approval for the withdrawal and diversion of water from Deer Creek of up to 3.15 mgd to supply APG through 2020. The City is currently operating the Deer Creek intake at Darlington and serving APG under the permit first issued to APG by MDE in 1979. The Deer Creek withdrawal at Darlington is not currently metered at the intake. The distribution system is metered at the main service connections at the base.

Water demand at APG is dependent on the size of the military and civilian populations living at the installation. Historic withdrawals from Deer Creek for water supply to the post during periods of heavier population have been estimated to be approximately 4.0 mgd, based on a maximum 30-day average. At various times in the past, APG has used interconnections with the water supply systems of both the City and Harford County to transfer water to or from those systems when drought, emergency, or operating conditions necessitated such transfers for continued water supply.

Because the existing MDE permit is nontransferable, the City has applied to MDE for a new permit, allowing withdrawal by the City from Deer Creek for water supply to both APG and the City. In addition to its application to the Commission to supply APG, the City has made a separate application to the Commission for approval to withdraw additional water from Deer Creek for supply to the City system.

Coordination. Commission staff has coordinated with the MDE's Water Management Administration, the Maryland Department of Natural Resources (MDNR), and Harford County's Department of Water and Sewer during review of the project. MDE is reviewing the use of Deer Creek as a source of public water supply for the City, and has reviewed this docket for consistency with its draft Water Appropriation and Use Permit.

Findings

The project's diversion of water from the basin and surface-water withdrawal are subject to Commission review and approval, as per Commission Regulations §803.42 and §803.44, respectively.

All the water withdrawn from Deer Creek for supply to APG is diverted from the Susquehanna River Basin to the Chapel Hill Water Treatment Plant. Finished water is then distributed to APG. Wastewater from APG is treated by the City of Aberdeen and returned to Dipple Creek, which discharges to the Chesapeake Bay. The entire diversion is, therefore, considered to be consumptively used.

The project sponsor has requested a consumptive water use and surface-water withdrawal approval of up to 3.15 mgd on a peak-day basis. The City's water demand projections for APG are based on an assumed constant growth rate of population on the base through 2020. To facilitate coordination with MDE, and in accordance with Commission Regulation §803.30(a), Commission staff is recommending that approval to the City to operate the Deer Creek intake for supply to APG be limited to a 12-year timeframe to coincide with the term of the MDE Water Appropriation and Use Permit. Therefore, the review of the application has been based on estimated demands in 2014.

The projected average demand provided by the City exceeds the contracted service quantity in the years 2011 through 2014. However, future missions and staffing of the post are very difficult to predict, and the Commission finds there is no basis for assuming a constant growth rate. The Army has determined that the quantities of 1.8 mgd on an annual average basis and 3.0 mgd on a peak day are adequate to serve APG for the foreseeable future. Commission staff recommends approval of a consumptive water use of up to 3.0 mgd on a peak-day basis, rather than the requested quantity of 3.15 mgd, which is consistent with the City's contractual obligation to the Army. Should the project's future withdrawal needs exceed or be expected to exceed 3.0 mgd on a peak day, the project sponsor must apply for a modification to this docket at that time.

The Army began withdrawing water from Deer Creek to supply APG in the 1940s, which predates the effective date of Commission Regulation §803.42 and the Susquehanna River Basin Compact. Therefore, the project is considered to be "grandfathered", and Commission approval of this prior diversion and withdrawal is not required. The project also is considered to be exempt from Commission consumptive water use compensation requirements.

The City has requested that the exemptions for APG's withdrawal and diversion from Deer Creek be transferred to the City's operation of the APG system. Commission Policy 98-06 limits the transferability of the exemption from consumptive use regulation to projects in which the nature and amount of the exempted use remain unchanged. Because the application involves only a change in ownership and operator, with consistent quantities of water being delivered to APG, the portion of the withdrawal historically used by APG is exempt from consumptive water use compensation requirements contained in Commission Regulation §803.42. The exempt quantity is, therefore, transferable to the project sponsor, although the project would not be

exempt from other Commission regulations, including those related to environmental protection and reporting requirements. Any portion of the withdrawal that will be used by an entity other than APG will be considered a new use, and subject to Commission regulations, particularly those related to consumptive water use, as an out of basin diversion.

Under the privatization contract, the City will operate only the Darlington intake supplying the Chapel Hill Water Treatment Plant; the Army will continue to operate the withdrawal supplying the Churchville Test Track. The Churchville withdrawal is less than Commission thresholds for the surface-water withdrawal and consumptive water use regulations, and is used on-site, within the drainage area of the Susquehanna River. The withdrawal at Churchville is, therefore, not an out-of-basin diversion, and Commission approval is not needed for continued water withdrawal or consumptive use at the Churchville Test Track.

The project sponsor operates the surface-water intake on Deer Creek at Darlington without metering of the withdrawal or engineering controls in place to ensure a passby flow is maintained at the site. Deer Creek is classified as a Use IV-P: Recreational Trout Waters plus Public Water Supply stream in the state of Maryland (Code of Maryland Regulations (COMAR), Title 26, Subtitle 08, Chapter 02, Regulation 08). This designation includes cool water/warm water fishery, and Deer Creek also supports populations of anadromous species during spawning. Furthermore, it is classified as a Scenic River, pursuant to Section 8-402 of the Maryland Scenic and Wild Rivers Act.

Commission staff recommends that the project sponsor install and maintain metering to measure the daily quantity of water withdrawn from Deer Creek. Commission staff recommends that the U.S. Geological Survey's stream gage 01580520, located on Deer Creek near Darlington, Md., be used as the reference gage for monitoring flow past the intake, and has calculated the 7-day 10-year low flow (Q7-10 flow) for Deer Creek to be 45 cubic feet per second (cfs) (29 mgd) at the point of withdrawal. The surface-water intake has a pumping station with the capacity of 4.0 mgd. The withdrawal of 3.0 mgd is greater than 10 percent of the Q7-10 flow (2.9 mgd) at the point of withdrawal, thereby requiring a passby flow to protect aquatic resources and downstream users.

Commission staff recommends that the project sponsor allow a seasonal passby flow of not less than 30 percent of annual average daily flow (ADF), which equals 69 cfs, from March 1 through June 30, and not less than 20 percent of ADF, which equals 46 cfs, at all other times of the year, and to cease all withdrawals when streamflow is less than the prescribed quantities. The recommendation is based on analysis of instream flow needs for indigenous and spawning species in Deer Creek. The MDE allocation permit under which the project sponsor is currently operating requires a passby flow equivalent to the Q7-10 flow of 45 cfs. MDE and MDNR have been consulted on Commission staff's recommendation of a seasonal passby flow and have expressed no objections to the more protective standard.

Because the gage at Darlington is located a few feet upstream of the Deer Creek intake, the project sponsor must monitor both the gage and the intake meter to be installed to correctly measure the flow past the intake. Commission staff recommends that the project sponsor read

the gage and intake meter every morning, and determine the flow past the intake by subtracting the withdrawal from the gage measurement.

According to Commission staff's analysis of historic flows on Deer Creek, streamflow will occasionally be insufficient to maintain the recommended passby flow rate and meet APG's needs. Based on this finding, Commission staff recommends that the project sponsor secure other sources of water to serve as a backup supply during those times when intake from Deer Creek is unavailable. Staff further recommends that the City be required to make suitable arrangements for such supply within one year, and supply quarterly progress reports to the Commission until such time as that backup supply is secured.

Deer Creek is classified as a Scenic River by the State of Maryland. MDNR and MDE have reviewed the proposed use under this docket and have found that it is not in conflict with the Deer Creek Scenic River Plan. Because the amount of the proposed withdrawal by the City for supply to APG would not exceed the historically permitted withdrawal by MDE from the creek, there were no concerns expressed by MDNR or MDE about impact to fish, aquatic species, or other natural resources of Deer Creek.

The project is subject to Commission water conservation requirements, as per Commission Regulation §804.20(a). Commission staff is recommending that, within five years of the date of the approval, the project sponsor reduce to a level of 20 percent or less the unaccounted-for water in the APG system.

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.

Emergency Use. While the City operates the Deer Creek intake for supply to APG, it maintains a well field and treatment facility to supply its own needs. The City recently began detecting perchlorate contamination in four of its ten operating supply wells, but thus far has been able to deliver to its customers treated water with perchlorate levels under the advisory level set by MDE, which is one part per billion (ppb). Nevertheless, the expected fate and transport of the perchlorate is unknown, and the United States Environmental Protection Agency has not yet determined an acceptable drinking water maximum contaminant level for perchlorate. Commission staff recognizes the potential for the contaminant concentration to increase. Presently, the City has no treatment system in place capable of removing perchlorate if it exceeds the advisory level.

In light of the potential contamination threat to the City's well field, Commission staff acknowledges the viability of an emergency use of APG's Deer Creek supply to serve the City on an interim basis. For the next several years, there is expected to be sufficient excess capacity at APG's intake and treatment facility to allow emergency water use by the City in the event that perchlorate contamination or regulatory criteria render the City's well field unusable. Commission staff recommends that, should such an emergency arise, and upon notice to the

Commission, the City be authorized to transfer water from the APG system to the City, under the following conditions:

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

During such emergency, and to the extent that the amount of the withdrawal approved hereunder is insufficient to meet the demands in both the City system and the APG system, the City may request an emergency approval, pursuant to Commission Regulation §803.27, to withdraw up to an additional 1 mgd from the Deer Creek (Darlington) Intake, the approval of which shall not be unreasonably withheld by the Commission.

If the conditions of the pending MDE water appropriation and use permit are met, the proposed project will not conflict with or adversely affect the Commission's Comprehensive Plan, is physically feasible, and does not adversely influence the present or future use and development of the water resources of the basin.

Out-of-Basin Diversion Considerations

Commission Policy No. 98-01 discourages the diversion or transfer of water from the basin in order to conserve, protect, and utilize the water resources of the basin in accordance with the best interests of the people in the basin and the Commission's signatory jurisdictions. Commission Policy No. 98-06, relating to the transferability of grandfathered consumptive water

use quantities, allows exemptions to transfer in cases where the nature and amount of the exempted consumptive water use remains unchanged.

Because the application is for a change in operator only, with consistent quantities of water being delivered to APG, and because in the past APG has historically provided water to the City on an emergency basis, the consumptive water use exemption of the diversion for APG transfers to the City for its emergency use of water.

Decision

The project's surface-water withdrawal from Deer Creek of up to 3.0 mgd on a peak-day basis, when available, and the consumptive use of water of up to 3.0 mgd on a peak-day basis through an out-of-basin diversion are approved pursuant to Article 3, Section 3.10 of the Compact for use at APG and for certain emergency uses, 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 metering, accurate to within five (5) percent, on the withdrawal from Deer Creek at the Darlington pumping station.

c. The project sponsor shall keep daily records of the project's surface-water withdrawal and its consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. The daily quantity of water consumptively used shall be the quantity withdrawn at the Deer Creek intake at Darlington. The project sponsor shall maintain metering on the intake, accurate to within five (5) percent.

d. The project sponsor shall keep daily records of readings from the U.S. Geological Survey's stream gage 01580520, located on Deer Creek near Darlington, Md., for use as the reference gage for monitoring flow past the intake, and shall report the data to the Commission quarterly, and as otherwise required.

e. The project sponsor shall allow a flow of not less than 69 cfs to pass in Deer Creek directly below the intake from March 1 through June 30, and not less than 46 cfs to pass in Deer Creek directly below the intake at all other times of the year. The project sponsor shall reduce its withdrawals, as necessary, to allow this amount of flow to pass unless natural streamflow is equal to or less than this amount, at which times the project sponsor shall cease all withdrawals.

f. The City shall develop and secure a backup supply or agreement for backup supply to the Deer Creek withdrawal for the amount of this approval on or before December 31, 2003, and shall report to the Commission quarterly on its progress in regard thereto until this condition is met. Any backup supply or agreement for backup supply is subject to review and approval by the Commission.

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

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

h. During an emergency under condition (g) above, and to the extent that the amount of the withdrawal approved hereunder is insufficient to meet the demands in both the City system and the APG system, the City may request an emergency approval, pursuant to Commission Regulation §803.27, to withdraw up to an additional 1 mgd from the Deer Creek (Darlington) Intake, the approval of which shall not be unreasonably withheld by the Commission.

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

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

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

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.

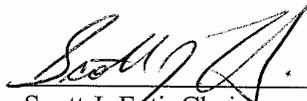
o. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

p. Based on Commission Regulation §803.30(a), this approval is effective until December 12, 2014. The approval shall have a duration equal to the term of the accompanying member jurisdiction permit, which is twelve years. The project sponsor shall submit a renewal application by June 12, 2014, and obtain Commission approval prior to continuing operation beyond December 12, 2014.

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: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 19880902
Approval Date: September 8, 1988
Modification Date: December 12, 2002

TOWN OF CORTLANDVILLE

Ground-Water Withdrawal (30-Day Average) of 1.0 mgd from
Lime Hollow Well 2, and a Total System Withdrawal Limit (30-Day Average) of 1.0 mgd,
for Public Water Supply,
Town of Cortlandville, Cortland County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to ground-water withdrawals. The original Commission approval for ground-water withdrawal was issued on September 8, 1988, Docket No. 19880902. The Commission received the current modification request on July 25, 2002.

Description

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

Location. The project is located in the Upper Susquehanna Subbasin, HUC 02050102, Otter Creek Watershed, Town of Cortlandville, Cortland County, New York.

Project Features. The project sponsor has requested approval for an increase in the withdrawal (30-day average) from 0.745 million gallons per day (mgd) to 1.0 mgd of water from Lime Hollow Well 2 (formerly Well 4). The project sponsor utilizes Well 2 to supply water to a municipal water supply system. On September 8, 1988, the Commission approved a ground-water withdrawal (30-day average) of 0.745 mgd from the town's Lime Hollow Well 4 (Docket No. 19880902). The well was renamed Lime Hollow Well 2 in 2000.

Lime Hollow Well 2 was completed as a 12-inch-diameter screened well in February 1988. The well is constructed with steel casing set to 68 feet below ground surface (bgs) and 22 feet of 80 slot screen set to the completed depth of 90 feet bgs. The well is located in a sand and gravel (glacial outwash) aquifer that fills a bedrock valley.

Lime Hollow Well 2 has been the sole source of supply for the town since 1988. Withdrawals from the well currently are metered and monitored weekly. The municipal water

supply system had an average metered daily demand of 0.630 mgd in 2001, and an existing maximum daily demand of 1.0 mgd. The maximum daily demand is projected to grow to 1.1 mgd by 2026. The project sponsor currently serves the Town of Cortlandville.

Most of the wastewater generated throughout the water system (approximately 74 percent) is discharged to the sanitary sewer system and treated at the City of Cortland wastewater treatment facility, which discharges to the Tioughnioga River.

Pumping Test. The project sponsor conducted a 48-hour stepped pumping test on May 18 and 19, 1988, for Lime Hollow Well 2. The final pumping rate was 1,574 gallons per minute (gpm). No drawdown was observed during the final 24 hours of pumping, and the total drawdown after 48 hours was 4.9 feet. The water level recovered to within 90 percent of the pretest water level in less than 1 minute after pumping stopped.

Coordination. Commission staff has coordinated with the New York State Department of Environmental Conservation (NYSDEC) Region 7 Office during review of the project. The New York State Departments of Health (NYSDOH) and NYSDEC permitted Well 2 in 1998, and are currently reviewing the proposed increase in pumping rate of Lime Hollow Well 7. NYSDEC staff has reviewed this docket for consistency with its requirements and provided no negative comments.

Findings

The withdrawal of water from Lime Hollow Well 2 is subject to Commission approval and reporting requirements, as per Commission Regulation §803.43.

The Commission previously approved a ground-water withdrawal of up to 0.745 mgd (30-day average) from Lime Hollow Well 2 for municipal water supply in the Town of Cortlandville (Docket No. 19880902). The town has requested an increase in the ground-water withdrawal approval from Lime Hollow Well 2 to 1.0 mgd, based on a 30-day average, as well as approval of a new ground-water source, Lime Hollow Well 7. Lime Hollow Well 7 currently is before the Commission for action as Docket No. 20021201.

Commission staff recommends that the pumping test conducted in May 1988 on Lime Hollow Well 2, at a rate of 1,574 gpm (2.2 mgd), be accepted. The results of the pumping test including the early drawdown stabilization and the rapid recovery indicate that Lime Hollow Well 2 draws water from an unconfined aquifer of high permeability. Lime Hollow Well 2 will be used in combination with the new well, Lime Hollow Well 7. These two wells are the only known wells within the Town of Cortlandville, and there are no nearby wetlands or surface water bodies anticipated to be impacted by the withdrawal. Therefore, no adverse impacts on other area ground-water withdrawals and on the environment are anticipated.

Commission staff recommends that the maximum instantaneous rate of production from Lime Hollow Well 2 should not exceed 1,574 gpm, the final pumping rate used during the 48-hour pumping test.

Based on Commission Regulation §803.30(a), the prior docket approval is effective until September 8, 2018. Commission staff recommends the duration of the docket approved be consistent with the prior docket approval. The project is physically feasible, does not conflict with or adversely affect the Commission's Comprehensive Plan, and does not adversely influence the present or future use and development of the water resources of the basin.

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

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

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

Decision

The project's ground-water withdrawal of 1.0 mgd (30-day average) from Lime Hollow Well 2 and a total system withdrawal limit (30-Day Average) of 1.0 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 ground-water 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 Lime Hollow Well 2. The required reporting data shall be submitted to the Commission annually, and as otherwise required. The project sponsor shall maintain the existing meter, accurate to within five (5) percent, on Lime Hollow Well 2.
- c. The maximum instantaneous rate of production from Lime Hollow Well 2 shall not exceed 1,574 gpm.
- d. The project sponsor shall comply with water conservation requirements, as per Commission Regulation §804.20(a).
- e. If the Commission determines that the operation of the project's ground-water withdrawal from Lime Hollow Well 2 adversely affects any existing ground-water or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

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

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

h. The Commission reserves the right to reopen any project docket and make additional orders that may be necessary to mitigate or avoid adverse impacts or otherwise to protect the public health, safety, welfare or the environment.

i. 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.

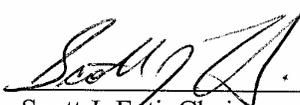
j. All other conditions in Commission Docket No. 19880902 not inconsistent herewith shall remain effective.

k. Based on Commission Regulation §803.30(a), this approval is effective until September 8, 2018. 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 March 8, 2018, and obtain Commission approval prior to continuing operation beyond September 8, 2018.

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: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 20021201
Approval Date: December 12, 2002

TOWN OF CORTLANDVILLE

Ground-Water Withdrawal (30-Day Average) of 1.0 mgd from
Lime Hollow Well 7, and a Total Well Field Withdrawal Limit (30-Day Average) of 1.0 mgd,
for Public Water Supply,
Town of Cortlandville, Cortland County, New York

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.43, relating to ground-water withdrawals. The Commission received the application on July 25, 2002.

Description

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

Location. The project is located in the Upper Susquehanna River Subbasin, HUC 02050102, Otter Creek Watershed, Town of Cortlandville, Cortland County, New York.

Project Features. The project sponsor has requested approval for the withdrawal (30-day average) of 1.0 million gallons per day (mgd) of water from Lime Hollow Well 7. The project sponsor currently utilizes one well, Lime Hollow Well 2, to supply water to a municipal water supply system. Lime Hollow Well 2 was previously approved by the Commission in September 1988 (Docket No. 19880902) and is pending Commission action for a modification. The project sponsor proposes to use Lime Hollow Well 7 as an alternate supply well.

Lime Hollow Well 7 is located approximately 65 feet south of Lime Hollow Well 2 in a sand and gravel (glacial outwash) aquifer that fills a bedrock valley. Lime Hollow Well 7 was drilled and constructed as a 16-inch-diameter screened well in January 2001. The well is constructed to a completed depth of 81 feet below ground surface (bgs). It is cased with 60 feet of steel set to 57 feet bgs, 6 feet of 50 slot screen to 63 feet bgs, 5 feet of 70 slot screen set to 68 feet bgs, and 13 feet of 120 slot screen set to the completed depth.

The municipal water supply system had an average metered daily demand of 0.630 mgd in 2001, and an existing maximum daily demand of 1.0 mgd. The maximum daily demand is projected to grow to 1.1 mgd by 2026. The project sponsor currently serves the Town of Cortlandville.

Most of the wastewater generated throughout the water system (approximately 74 percent) is discharged to the sanitary sewer system and treated at the City of Cortland wastewater treatment facility, which discharges to the Tioughnioga River.

Pumping Test. A 48-hour constant-rate pumping test was conducted April 17-19, 2001, for Lime Hollow Well 7. Pumping at an average rate of 1,450 gallons per minute (gpm), drawdown stabilized at approximately 12 feet after 15 minutes of pumping. At the end of the test, total drawdown was 13.3 feet. The water level recovered to within 90 percent of the pretest water level approximately 2 minutes after the end of the pumping test. Drawdown in observation wells located within 5 feet and 65 feet were 4.2 feet and 1.3 feet, respectively, at the end of the 48-hour test. Drawdown stabilized in the observation wells at approximately 4 feet and 1 foot after the first minute of the 48-hour test, with little further drawdown during the remainder of the 48-hour test.

Coordination. Commission staff has coordinated with The New York State Department of Environmental Conservation (NYSDEC) Region 7 Office during review of the project. NYSDEC received a complete application on September 25, 2002, and is reviewing the development and use of Lime Hollow Well 7 as a source of public water supply. NYSDEC staff has reviewed this docket for consistency with its requirements and provided no negative comments.

Findings

The withdrawal of water from Lime Hollow Well 7 is subject to Commission approval and reporting requirements, as per Commission Regulation §803.43.

Pumping test results, including the early drawdown stabilization in this well and the rapid recovery, indicate that Lime Hollow Well 7 draws water from an unconfined aquifer of high permeability.

Staff recommends approval of an instantaneous withdrawal rate of 1,450 gpm, the pumping rate used during the constant-rate pumping test, and a 30-day average withdrawal rate of 1.0 mgd from Lime Hollow Well 7, providing that the total withdrawal from the well field is limited to 1.0 mgd. The project sponsor proposes to use Lime Hollow Well 7 as an alternate supply well, pumping Well 7 and Well 2 equally during a 30-day period. The 30-day average withdrawal rate of 1.0 mgd from the well field will be adequate to supply the Town's projected increase in maximum daily demand during the term of this approval.

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

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

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

Decision

The project's ground-water withdrawal of 1.0 mgd (30-day average) from Lime Hollow Well 7 and a total well field 30-day average withdrawal limit of 1.0 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 ground-water 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 Lime Hollow Well 7. The required reporting data shall be submitted to the Commission annually, and as otherwise required. The project sponsor shall maintain the existing meter, accurate to within 5 percent, on Lime Hollow Well 7.
- c. The maximum instantaneous rate of production from Lime Hollow Well 7 shall not exceed 1,450 gpm.
- d. The project sponsor shall comply with water conservation requirements, as per Commission Regulation §804.20(a).
- e. If the Commission determines that the operation of the project's ground-water withdrawal from Lime Hollow Well 7 adversely affects any existing ground-water or surface-water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.
- f. Commission approval shall not be construed to exempt the project sponsor from obtaining all necessary permits and/or approvals required for the project from other federal, state, or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend, or revoke this action if the project sponsor fails to obtain or maintain such approvals.

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

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

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

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

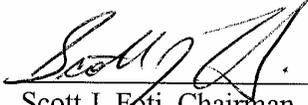
k. This approval is effective until December 12, 2027. The project sponsor shall submit a renewal application by June 12, 2027, and obtain Commission approval prior to continuing operation beyond December 12, 2027.

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

reasonably inferred, the Commission may rescind the approval of the project unless a renewal is requested by the project sponsor and approved by the Commission.

By the Commission:

Dated: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 20021202
Approval Date: December 12, 2002

COON INDUSTRIES, INC.

Consumptive Water Use of Up to 0.093 mgd,
for Manufacture of Ready-Mixed Concrete,
Pittston Township, Luzerne County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The 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 the manufacture of ready-mixed concrete.

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

Project Features. The project sponsor originally requested approval for the consumptive use of water of up to 0.033 million gallons per day (mgd), and subsequently, modified its request to 0.093 mgd. Operations at the facility began in 1987. Currently, the facility consists of an office building, a concrete batch plant, and a maintenance building.

Water is supplied to the facility by the Pennsylvania-American Water Company—Spring Brook Division (PAWC) public water supply system. Water enters through two incoming water lines, 6 inches and 1 inch in diameter, and each source is metered prior to being distributed to the office and maintenance buildings, and concrete production area. The project sponsor also maintains a meter in the concrete batch plant to measure the quantity of water incorporated into each batch of concrete produced.

The water supplied by the 1-inch water line is used only for sanitary purposes in the office building. The water supplied by the 6-inch water line is primarily used for the manufacture of concrete and equipment washing. The remainder is used for sanitary purposes. In the summer, the project sponsor sprays cooling water onto the aggregate stockpiles to maintain acceptable temperatures when manufacturing state-approved concrete mixes. In the

winter, water is used to produce steam to heat the aggregate stockpiles. This prevents the material from freezing so production of concrete can be maintained.

Based on monthly metered water use data submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be approximately 0.034 mgd, and current peak-day consumptive water use to be approximately 0.093 mgd.

All of the wastewater resulting from the facility's sanitary uses is discharged to the Wyoming Valley Sewer Authority's sanitary sewer system. Effluent from the facility currently is not metered.

Wastewater resulting from equipment washing is discharged to the ground surface or to a filtering pit.

Findings

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

All water used in the concrete manufacturing process, including water incorporated into cement, aggregate washing, evaporative losses associated with equipment washing, spraying and heating of aggregate stockpiles, and dust control is considered to be used consumptively.

The project sponsor obtains all of its water from a public supplier (PAWC). The water from two incoming waterlines is metered, and those meters currently are read monthly by PAWC. The project sponsor also measures and records the quantity of water incorporated into each batch of concrete manufactured. Sanitary wastewater discharged from the facility is not metered.

Commission staff recommends that the project's total daily consumptive water use be calculated as the quantity of water entering the facility through the 6-inch water line, minus the quantity of water discharged to the sanitary sewer system from the maintenance building and concrete production area. Staff recommends that the project sponsor record the total quantity of water supplied to the facility through the 6-inch water line on a daily basis to compute the project's daily consumptive water use. Commission staff estimates a sanitary sewer discharge of 500 gallons per day during facility operations; however, the project sponsor could propose alternative monitoring to the Commission for staff review and approval to quantify daily consumptive water use.

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

The project sponsor has requested a consumptive water use approval of up to 0.033 mgd. Based on an 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 up to 0.093 mgd, which represents the estimated peak-day use. The project sponsor concurs with this estimate. Should the project's future consumptive water use exceed or be expected to exceed 0.093 mgd, the project sponsor must apply for a modification to this docket at that time.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.093 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. The daily quantity of water consumptively used shall be the quantity used in the concrete manufacturing process, including water incorporated into cement, aggregate washing, the quantity evaporated by equipment washing, spraying and heating of aggregate stockpiles, and dust control. The project sponsor shall calculate consumptive water use by subtracting the total estimated quantity of wastewater (500 gpd) discharged from the maintenance building and concrete production area to Wyoming Valley Sewer Authority's sanitary sewer system from the total quantity of metered water provided to the facility through the 6-inch water line by the PAWC. The project sponsor shall maintain the existing meter, accurate to within five (5) percent, to compute the consumptive water use. The project sponsor may propose alternative monitoring of the effluent discharge to the Commission for staff's review and approval.

c. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity used in the concrete manufacturing process, including water incorporated into cement, aggregate washing, the quantity evaporated by equipment washing, spraying and heating of aggregate stockpiles, and dust control. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

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

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

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

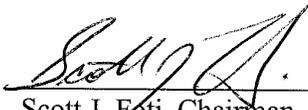
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

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

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: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 20021204
Approval Date: December 12, 2002

**CENTRAL BUILDERS SUPPLY COMPANY
NORTHUMBERLAND SAND & GRAVEL PROCESSING PLANT**

Consumptive Water Use of Up to 0.096 mgd, for Processing of Sand and Gravel,
Point Township, Northumberland County, Pennsylvania

Review Authority

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

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with sand and gravel processing.

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.096 million gallons per day (mgd). The sand and gravel processing plant has been in operation since April 1971.

The project sponsor excavates sand and gravel from the property and utilizes water in two on-site ponds for its material processing. Water is pumped from the wash-water pond (designated the clarified water pond by the project sponsor) to the processing plant, where it is mixed with the sand and gravel to transport the material through the system and separate the various grain sizes. The withdrawal from the pond is not metered; however, the pump has a rated capacity of 3,000 gallons per minute (gpm). Water also is used to remove the unsuitable silts and clays from the sand and gravel. The sediment-laden water discharges to a siltation pond, where the silts and clays settle out. "Clean" water is reused in the processing system.

Water also is withdrawn from the wash-water pond to control fugitive emissions (dust). Water trucks (3,000-gallon capacity) are equipped with sprayers that spray water on haul roads in order to control dust. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water withdrawn from the pond.

Based on daily water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff estimates the project's maximum average 30-day consumptive water use to be 0.067 mgd, and current peak-day consumptive water use to be approximately 0.087 mgd.

The project sponsor estimates the total surface area of the two processing ponds to be approximately 6.43 acres. The processing ponds are maintained at adequate operating levels by capturing storm water runoff from adjacent upland areas and returning water from the washing process. The project sponsor also pumps water collected in the quarry to the wash-water pond using a portable pump with a capacity of approximately 500 gpm. If these sources are insufficient to meet the project's demands, the project sponsor pumps water from the Susquehanna River to the wash-water pond using a portable pump with an estimated capacity of 100 gpm. The withdrawal of water from the river is not metered.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP) Bureau of Mining and Reclamation during review of the project. Pa. DEP approved the project's withdrawal of ground water during its review of the sand and gravel extraction operation. Pa. DEP Bureau of Mining and Reclamation staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 6173SM3A1.

Findings

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

All water retained in the product, used for fugitive emission control, and evaporated from the two processing 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.

The difference between the quantity of water supplied to the processing plant from the clarified water pond and the quantity of wash water discharged from the processing plant (density compensated) is the quantity of water retained in the product. Commission staff recommends that the project sponsor install meters to measure the daily quantity of water entering and leaving the processing plant.

Water withdrawn from the processing pond for fugitive emission control should be calculated based on the capacity of the trucks and the number of truckloads of water. The project sponsor maintains a log of the daily number of truckloads of water withdrawn. All water used for dust control is considered to be consumptive.

Water evaporated from the processing ponds will be calculated by the project sponsor employing a methodology acceptable to the Commission.

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

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

The project sponsor has requested a consumptive water use approval of up to 0.096 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 0.087 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 0.096 mgd, the project sponsor must apply for a modification to this docket at that time.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.096 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

- a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42.
- b. Within sixty (60) days from the date of this approval, the project sponsor shall install and then maintain meters, accurate to within five (5) percent, on the withdrawal from and discharge to the processing ponds to measure the quantity of water entering and leaving the processing plant. The project sponsor may propose alternative monitoring to quantify daily consumptive water use to the Commission for staff review and approval.

c. 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. The daily quantity of water consumptively used shall be the quantity of water retained in the product, plus the quantity of water used for fugitive emission control, plus the quantity of water evaporated from the two processing ponds. The quantity of water retained in the product shall be calculated as the difference between the quantity of water supplied to the processing plant from the clarified water pond and the quantity of wash water discharged from the processing plant (density compensated). The quantity of water used for fugitive emission control shall be calculated based on the capacity of the trucks and the number of truckloads of water. Commission staff shall review and approve the method of calculation of evaporative loss from the processing ponds.

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

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

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

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

h. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate

credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

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

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

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

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

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: December 12, 2002



 Scott J. Foti, Chairman
 New York Alternate Commissioner

Docket No. 20021205
Approval Date: December 12, 2002

CENTRAL BUILDERS SUPPLY COMPANY
MONTANDON SAND & GRAVEL PROCESSING PLANT

Consumptive Water Use of Up to 0.098 mgd, for Processing of Sand and Gravel,
West Chillisquaque Township, Northumberland County, Pennsylvania

Review Authority

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

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with sand and gravel processing.

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.098 million gallons per day (mgd). The project sponsor began its activities at the site in 1999.

The project sponsor excavates sand and gravel from the property. The plant currently has three on-site processing ponds; a primary freshwater pond, a reserve freshwater pond, and a siltation pond. The withdrawal from the wash-water pond is not metered; however, the pump has a rated capacity of 3,000 gallons per minute (gpm).

Water is pumped from the freshwater pond to the processing plant, where it is mixed with the sand and gravel to transport the material through the system and separate the various grain sizes. The water removes the unsuitable silts and clays from the sand and gravel. The sediment-laden water discharges to a siltation pond where the silts and clays settle out. "Clean" water is reused in the processing system.

Water also is withdrawn from the freshwater pond to control fugitive emissions (dust). Water trucks (4,000-gallon capacity) are equipped with sprayers that spray water on haul roads

in order to control dust. The withdrawal is not metered; however, the project sponsor maintains a log documenting the daily number of truckloads of water withdrawn from the pond.

Based on projected water use data submitted by the project sponsor, Commission staff estimates the project's maximum average 30-day consumptive water use to be 0.064 mgd, and peak-day consumptive water use to be 0.098 mgd.

Although the project sponsor currently is excavating sand and gravel above the seasonal high water table, mining on the site will continue below the water table to a depth of approximately 40 feet. Mining below the water table will be conducted using a sequence of excavation "cells" and will not involve dewatering of the excavations.

The project sponsor reports that the primary freshwater pond and reserve freshwater pond existed prior to 1971. Commission staff has determined that the primary freshwater pond and reserve freshwater pond have a total surface area of approximately 3.50 acres, and the siltation pond currently has an area of 0.50 acres. The primary freshwater pond and the siltation pond are generally maintained at adequate operating levels by water returning from the washing operation and from surface-water runoff from adjacent upland areas. If these sources are insufficient to meet the project's demands, water also can be pumped from the reserve freshwater pond into the primary freshwater pond using a portable pump with a rated capacity of 600 gpm. The withdrawal of water from the reserve freshwater pond is not metered.

Coordination. Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (Pa. DEP) Bureau of Mining and Reclamation during review of the project. Pa. DEP approved the project's withdrawal of ground water during its review of the sand and gravel extraction operation. Pa. DEP Bureau of Mining and Reclamation staff has reviewed this docket for consistency with its Noncoal Surface Mining Permit No. 49960301, issued on October 14, 1999.

Findings

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

All water retained in the product, used for fugitive emission control, and evaporated from the active mining cells and siltation pond(s), and any other evaporation losses as a result of active mining operations is considered to be used consumptively. Commission staff recommends that the project's total daily consumptive water use be determined by summing the daily consumptive water use from these categories. The primary and reserve freshwater ponds predate the Commission's consumptive use regulation; therefore, the project sponsor is not required to provide compensation for the evaporative losses from these ponds.

The difference between the quantity of water supplied to the processing plant from the primary freshwater pond and the quantity of wash water discharged from the processing plant (density compensated) is the quantity of water retained in the product until such time as the project sponsor begins mining below the water table. Commission staff recommends that the

project sponsor install meters to measure the daily quantity of water entering and leaving the processing plant.

Water withdrawn from the processing pond for fugitive emission control should be calculated based on the capacity of the trucks and the number of truckloads of water. The project sponsor maintains a log of the daily number of truckloads of water withdrawn. All water used for dust control is considered to be consumptive.

Water evaporated from the siltation pond(s) will be calculated by the project sponsor employing a methodology acceptable to the Commission. The project sponsor has indicated that additional siltation ponds may be constructed as mining operations progress. Commission staff recommends that the project sponsor provide certification to the Commission, on a quarterly basis, indicating the actual total area of the siltation pond system for that quarter.

Commission staff recommends that 90 days prior to mining below the water table, the project sponsor provide to the Commission an accounting system that measures the additional consumptive uses that will occur as a result of that mining. These may include, but are not limited to, evaporative losses from the active mining cells and water associated with the excavation of saturated sand and gravel. Commission staff will review and approve the revised consumptive water use accounting procedures.

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

The project sponsor has requested a consumptive water use approval of up to 0.098 mgd. Based on an analysis of projected peak water use data supplied by the project sponsor, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.098 mgd, the project sponsor must apply for a modification to this docket at that time.

The Pennsylvania Natural Diversity Inventory (PNDI) indicates the presence of a graminoid marsh located within the 1,000-foot search radius, which is habitat for several vegetative, avian, and invertebrate species of state concern. The potential for adverse impacts to the marsh, as a result of mining activities on-site, has been investigated by the Pennsylvania Game Commission, the Pennsylvania Topographic and Geologic Survey, the Pennsylvania Bureau of Forestry and Pa. DEP. Their findings indicate that no adverse impacts to the marsh are anticipated. The marsh will be monitored in accordance with Noncoal Surface Mining Permit Number 49960301, issued on October 14, 1999, by Pa. DEP, Bureau of Mining and Reclamation. Commission staff concurs with this finding.

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

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.098 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

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

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

c. 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. The daily quantity of water consumptively used shall be the quantity of water retained in the product, plus the quantity of water used for fugitive emission control, plus quantity of water evaporated from the active mining cells, plus the quantity of water evaporated from the siltation pond(s), plus any other evaporative losses as a result of active mining. The quantity of water retained in the product shall be calculated as the difference between the quantity of water supplied to the processing plant from the primary freshwater pond and the quantity of wash water discharged from the processing plant (density compensated), until such time as the project sponsor begins mining below the water table, as provided for in condition (e). The quantity of water used for fugitive emission control shall be calculated based on the capacity of the trucks and the number of truckloads of water. Commission staff shall review and approve the method of calculation of evaporative loss from the processing ponds.

d. The project sponsor shall provide certification to the Commission quarterly, and as otherwise required, indicating the actual total area of the siltation pond system for that quarter.

e. Ninety (90) days prior to mining below the water table, the project sponsor shall provide to the Commission an accounting system that measures the additional consumptive uses that will occur as a result of that mining. Following review and approval of the revised accounting procedures by Commission staff, the project sponsor shall use this system for calculation of the daily quantity of water consumptively used.

f. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity of water retained in the product, plus the quantity of water used for fugitive emission control, plus quantity of water evaporated from the active mining cells, plus the quantity of water evaporated from the siltation pond(s), plus any other evaporative losses as a result of active mining. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

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

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

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

matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

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

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

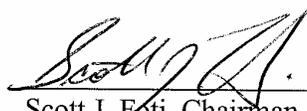
m. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

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

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

By the Commission:

Dated: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 19880201
Approval Date: February 11, 1988
Modification Date: December 12, 2002

THE HARRISBURG AUTHORITY
HARRISBURG MATERIALS, ENERGY, RECYCLING
AND RECOVERY FACILITY

Consumptive Water Use of Up to 0.700 mgd
for Industrial Water Use,
City of Harrisburg, Dauphin County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The original Commission approval for consumptive water use was issued on February 11, 1988, as Docket No. 19880201. The current modification request was received on June 7, 2002.

Description

Purpose. The purpose of the application is to request approval for an increase in the consumptive use of water at The Harrisburg Authority's (Authority) Harrisburg Materials, Energy, Recycling and Recovery Facility (Facility), a refuse incineration, and steam and electric generation facility.

Location. The project is located in the Lower Susquehanna Subbasin, HUC 02050301, Susquehanna River Watershed, City of Harrisburg, Dauphin County, Pennsylvania.

Project Features. The project sponsor has requested an increase in the consumptive use of water from 0.267 million gallons per day (mgd) to 0.700 mgd. The Facility's incinerator and steam complex uses heat from the incineration of municipal refuse to generate steam for use in electric power generation, deaeration of boiler feed water, operation of soot blowers, facility heating, and supply steam to NRG Harrisburg (formerly Harrisburg Steam Works LTD) and the Bethlehem Steel plant. On February 11, 1988, the Commission approved the consumptive use of water of up to 0.267 mgd (Docket No. 19880201). The City of Harrisburg (City) began operations at the Facility in 1972. The Authority purchased the Facility in December 1994, and the City continues to operate the Facility pursuant to a Management Agreement with the Authority.

Water is supplied to the Facility by the Authority at an average annual rate of 0.296 mgd. The water supplied by the Authority is metered at three locations as it enters the Facility, and is used for make-up water to the two boilers, for ash handling with on-site disposal and for supply to the Facility's pretreatment plant.

In addition to the water supplied by the Authority, the Facility is supplied treated effluent from the City of Harrisburg's Advanced Wastewater Treatment Facility (HAWTF). The water supplied by HAWTF is used for make-up water to the three chiller cooling towers that cool the turbine of the 8-megawatt electric power generator. Make-up water to the chiller cooling towers and cooling tower blowdown currently is not metered, but is calculated based on water recirculation rate and temperature differentials in the cooling towers. When treated wastewater is not available from HAWTF, the Facility uses metered water from the Authority as a backup supply for makeup water to the cooling towers.

When at full capacity, the Facility's maximum average 30-day consumptive water use is approximately 0.464 mgd during peak summer months, as determined by the project sponsor using both design calculations and metered usage. Consumptive water use data have been compiled using these methods since January 1, 1999. Peak-day consumptive water use is calculated to be 0.610 mgd.

Ash handling wastewater generated at the Facility is treated at the Facility's pretreatment plant before being discharged to the sanitary sewer system through an unmetered outfall line for further treatment at HAWTF. Other Facility wastewater flows not requiring pretreatment also discharge to the same unmetered outfall line. Ash residue from the Facility's pretreatment plant contains 15 percent water, by weight, and is disposed of at the Facility's on-site landfill, where a portion of this water evaporates. Additionally, one-third ton per day of filter cake from the Facility's pretreatment plant is trucked off-site for landfill disposal. The filter cake has a water content of 40 percent, by weight.

Findings

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

All water evaporated by the chiller cooling towers, as well as all steam losses, is considered to be entirely consumptively used. The majority of the steam losses result from the controlled dumping of steam that cannot be beneficially used because of Facility operational constraints, but also include soot blower losses, steam line losses, and other miscellaneous losses. In addition, half of all water incorporated in ash residue and disposed in the on-site landfill is consumptively used through evaporation. While all of the water incorporated in the filter cake from the Facility's pretreatment plant is trucked off-site and is consumptively used, the project sponsor has demonstrated that this amount is nominal. Commission staff concurs with these findings.

The project sponsor began operations at the site in 1972. Therefore, the project has no consumptive water use predating the effective date of Commission Regulation §803.42, January 23, 1971.

The project sponsor currently is operating under a consent order and agreement (dated January 9, 2001) with the Pennsylvania Department of Environmental Protection (Pa. DEP) and U.S. Environmental Protection Agency to upgrade the Facility to meet the requirements of the Federal Clean Air Act amendments by June 18, 2003. The Facility's incinerator, boiler, cooling tower, power generation, and emissions control equipment will either have to meet the agreement requirements by the deadline, or the Facility will have to shut down until compliance can be achieved. In order to meet the emission requirements, the project sponsor is planning a complete replacement of the above listed Facility equipment. The existing 8-megawatt power generator and turbine will be retained as an alternate generator, which requires less steam for operation, when large amounts of live steam are required for the city steam loop (as in winter). A new power generator and turbine of approximately 18-megawatt capacity will be installed to increase electric generation capacity during peak summer months. The project sponsor has indicated that, because of the limited capacity for steam generation, the generators will not be used at the same time.

The City currently is arranging the financing for the complete retrofit of all Facility equipment, which will take up to two years. During the construction period, the Facility will be shut down.

The project sponsor has developed a spreadsheet, based on both design calculations and metered usage, to determine the Facility's daily consumptive water use. The spreadsheet utilizes daily-metered steam flows to determine the portion of the Facility's consumptive water use resulting from steam losses, which are entirely consumptively used. The spreadsheet calculates daily steam losses by subtracting the sum of total steam used for electric generation, steam exported to NRG Harrisburg and Bethlehem Steel, and steam used in-house from the total steam generated in the boilers. All daily steam quantities are measured by orifice meters in pounds of steam per day and converted to gallons of water per day.

Consumptive water use reported on the spreadsheet for the chiller cooling towers, which are currently not metered, is the calculated design maximum 30-day average consumptive water use based on the peak monthly rate of recirculation of the cooling water and the temperature differential between the cooling water and the outside air. The calculated maximum 30-day average consumptive water use for the cooling towers is reported on a year-round basis in the spreadsheet for all days when power is being generated. The design calculations for the chiller cooling tower consumptive water use are based on the expected usage of the proposed project after retrofitting the Facility with a new power generator and turbine of approximately 18-megawatt capacity, rather than calculated usage based on the existing 8-megawatt generator and turbine. Therefore, these calculated consumptive water uses are a factor of 2.25 times higher than existing levels since consumptive water use by the chiller cooling towers is proportional to the capacity of the power generator in megawatts.

During the period of the consent order, the Facility's boilers have been derated, and the Facility is operating at approximately half of the preconsent order capacity. The Facility ceased supplying steam to NRG Harrisburg and the Bethlehem Steel plant. The Facility's consumptive use also has been reduced to approximately half of the prior amounts during this period. However, recently reported consumptive water use quantities include several instances of use

greater than the currently approved amount. Commission staff further investigated reported consumptive uses and concludes that chiller tower estimates were overstated. Commission staff concludes there have been no consumptive water use approval exceedences and recommends no assessment of penalties.

The project sponsor has agreed to meter and record the daily quantities of consumptive water use associated with the chiller cooling towers when the Facility is completely retrofitted. If, however, the Facility's current interim operation under the consent order and agreement is for any reason extended beyond the deadline of the consent order, the project sponsor has agreed to meter and record the daily quantities of consumptive water use associated with the existing chiller cooling towers by June 18, 2003.

Water incorporated in the ash residue is currently not measured. However, the project sponsor does measure the tons of ash residue disposed in the on-site landfill daily. Fifteen percent of the ash residue, by weight, is water, and 50 percent of this water is consumptively used. The project sponsor proposes to modify the spreadsheet to include the daily amount of ash-residue water that is consumptively used.

Commission staff recommends approval of the project sponsor's proposed amended spreadsheet accounting procedure that, after June 18, 2003, will utilize metered consumptive water use for the Facility's chiller cooling towers, will continue to quantify the Facility's steam losses as presently measured and calculated, and will calculate the water incorporated in the ash residue daily.

The project sponsor has requested a consumptive water use approval of up to 0.700 mgd, based on the calculated peak daily consumptive water use for the proposed retrofitted Facility. 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. Also, if the proposed expansion of the Facility is modified in such a way that future consumptive water uses are significantly lower than presently projected, the project sponsor should request a modification to this approval.

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's current approval is based on the discontinuance of that part of the project's operation that consumes water during periods of low flow that are below the Commission's low flow criterion (the 7-day, 10-year low flow). By letter dated October 8, 1998, the project sponsor requested that the Commission change the Facility's method of compensation for consumptive water uses from discontinuance to the use of public water storage provided by the Authority.

The Authority utilizes raw water storage in Dehart Reservoir as its primary source of water supply for the system. The Authority's water allocation permit (No. WA 22-53B), issued by Pa. DEP, requires the Authority to maintain a continuous conservation release downstream from Dehart Dam of 3.34 mgd. Commission staff has determined that, at the point of withdrawal, this conservation release exceeds the Commission's low flow criterion of the 7-day, 10-year low flow (Q7-10) for Clarks Creek. Therefore, Commission staff concurs that the use of the Authority is an acceptable method of compensation for the Facility's consumptive water use,

so long as Dehart Reservoir is being used exclusively by the Authority as its water supply and the conservation release is continuously maintained.

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

The project is subject to Commission 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 submitted all proofs of notification, as required by Commission Regulation §803.25.

Based on Commission Regulation §803.30(a), the prior docket approval is effective until February 11, 2018. Staff recommends the duration of this docket modification be consistent with the term of the prior docket approval.

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

Decision

The project's consumptive water use of up to 0.700 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 annually, and as otherwise required. The daily quantity of water consumptively used shall be calculated by using the project sponsor's proposed amended spreadsheet accounting procedure. This spreadsheet calculates daily steam losses by subtracting the sum of total steam used for electric generation, steam exported to the NRG Harrisburg and Bethlehem Steel, and steam used in-house from the total steam generated in the boilers. Daily consumptive water use by the chiller cooling towers is calculated by subtracting metered cooling tower blowdown from metered cooling tower makeup. Also, daily consumptive

water use resulting from the disposal of ash residue in the on-site landfill is half of the total water content of the ash residue. The sum of these three consumptive water uses comprises the Facility's total consumptive water use. The project sponsor shall maintain all existing and proposed meters, accurate to within five (5) percent.

c. If the Facility's current interim operation under the consent order and agreement is for any reason extended beyond June 18, 2003, the project sponsor shall meter and record daily the makeup water to the existing chiller cooling towers and the cooling tower blowdown by June 18, 2003. During the retrofit of the Facility, the project sponsor shall meter the makeup water to the new chiller cooling towers and meter cooling tower blowdown. When operations of the retrofitted Facility begin, the project sponsor shall monitor and record daily the makeup water to the chiller cooling towers and cooling tower blowdown.

d. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, and subject to condition (e) below, the Commission has determined that the use of water from the Authority public water supply utilizing raw water storage in Dehart Reservoir is an acceptable method of compensation for the project's consumptive water use.

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

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

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

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

matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

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

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

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

l. All other conditions in Commission Docket No. 19880201 not inconsistent herewith shall remain effective.

m. Based on Commission Regulation §803.30(a), this approval is effective until February 11, 2018. The duration of this docket modification is in accordance with the term of the prior docket approval. The project sponsor shall submit a renewal application by August 11, 2017, and obtain Commission approval prior to continuing operation beyond February 11, 2018.

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: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 20021206
Approval Date: December 12, 2002

DAIRY FARMERS OF AMERICA, INC.

Consumptive Water Use of Up to 0.168 mgd, for Manufacture of Beverages,
Lower Allen 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, 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 29, 2001.

Description

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

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.168 million gallons per day (mgd). The manufacture and bottling of coffee-flavored dairy beverages began at the facility in 1997.

Water is supplied to the facility by the Pennsylvania-American Water Company—West Shore/Riverton Division (PAWC) public water supply system. The water is metered as it enters the facility and is used for the manufacturing process, noncontact process cooling, boiler make-up, plant cleaning, and sanitary purposes. Water also is incorporated into products. Based on metered monthly water use data for the years 2001 and 2002 submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.099 mgd. Commission staff estimates current peak-day consumptive water use to be 0.146 mgd.

All of the wastewater generated from the facility is metered and then discharged to the Lower Allen Township Authority (LATA) sanitary sewer system.

Findings

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

All water evaporated by the facility's cooling towers and from various manufacturing processes, as well as incorporated into the product, is considered to be used consumptively. The project sponsor obtains water from a public supplier. The water is metered as it enters the facility, and the meter currently is read monthly. The project sponsor measures and records all of the effluent discharged to the LATA's sanitary sewer system on a daily basis. The difference between the metered public water supplied to the facility and the metered outflow is the quantity of consumptive water use at the facility. Commission staff recommends that the project sponsor record both the metered inflow and outflow to the facility on a daily basis to determine the project's daily consumptive water use.

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

The project sponsor has requested a consumptive water use approval of up to 0.168 mgd. Based on an analysis of the limited water use records supplied by the project sponsor and recognizing that inflow has been recorded on a monthly basis, 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 0.146 mgd. Approval of the requested amount should address the variation in peak-day use. Should the project's future consumptive water use exceed or be expected to exceed 0.168 mgd, the project sponsor must apply for a modification to this docket at that time.

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

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

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

Compliance Incentive Program

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

compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's consumptive water use of up to 0.168 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. The daily quantity of water consumptively used shall be the quantity evaporated by the facility's cooling towers and from various manufacturing processes, as well as water incorporated into the product. The project sponsor shall calculate consumptive water use by subtracting the total quantity of metered wastewater discharged by the facility to LATA's sanitary sewer system from the total quantity of water provided to the facility by the PAWC. The project sponsor shall record both metered inflow and outflow at the facility on a daily basis. The project sponsor shall maintain the existing meters and measuring devices, accurate to within five (5) percent, to compute the consumptive water use.

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

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

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

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

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

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

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

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

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

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: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner

Docket No. 20021207
Approval Date: December 12, 2002

LANCASTER LEAF TOBACCO CO. OF PA, INC.

Consumptive Water Use of Up to 0.063 mgd, for Processing of Leaf Tobacco,
City of Lancaster, Lancaster County, Pennsylvania

Review Authority

This project is subject to review pursuant to Article 3, Section 3.10 of the Susquehanna River Basin Compact, P.L. 91-575, and Commission Regulations §803.4, relating to projects requiring review and approval, and §803.42, relating to the consumptive use of water. The Commission received the application on June 29, 2001.

Description

Purpose. The purpose of the application is to request approval for the consumptive use of water associated with the processing of leaf tobacco.

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

Project Features. The project sponsor has requested approval for the consumptive use of water of up to 0.063 million gallons per day (mgd). Operations at the facility involve the reconditioning, blending, and packaging of leaf tobacco, which is then manufactured into tobacco products at other facilities. The processing of leaf tobacco began at this location in approximately 1962. Lancaster Leaf Tobacco Co. of PA, Inc. purchased the facility from General Cigar Company, and has been operating there since 1985.

Water is supplied to the facility by the City of Lancaster Authority (CLA). The water is metered as it enters the facility, and is used for various leaf tobacco reconditioning processes, make-up water for three boilers, cooling of process water, and sanitary purposes. Based on daily-metered water use data submitted by the project sponsor, Commission staff calculates the project's maximum average 30-day consumptive water use to be 0.037 mgd, and current peak-day consumptive water use to be 0.057 mgd.

All of the wastewater from the facility is metered and then discharged through one outfall to the Lancaster Area Sewer Authority (LASA) sanitary sewer system.

Findings

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

All water evaporated from the various leaf tobacco reconditioning processes, evaporated by the facility's two cooling towers, and incorporated into the product is considered to be used consumptively. The project sponsor obtains water from a public supplier. The water is metered as it enters the facility, and the meter is read daily. The project sponsor measures and records all of the effluent discharged to the LASA's sanitary sewer system on a daily basis. The difference between the metered public water supplied to the facility and the metered outflow is the quantity of consumptive water used at the facility.

The project sponsor's predecessor, General Cigar Company, was consumptively using water at the facility for the processing of leaf tobacco before January 23, 1971, the effective date of Commission Regulation §803.42. However, the project sponsor has limited knowledge of the pre-1971 consumptive water use and has requested no "grandfathered" quantity.

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

The project sponsor has requested a consumptive water use approval of up to 0.063 mgd. Based on an analysis of the limited water use records supplied by the project sponsor, Commission staff is recommending approval of the requested amount, which represents an increase of approximately 10 percent above the current peak-day use of 0.057 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 0.063 mgd, the project sponsor must apply for a modification to this docket at that time.

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

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

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

Compliance Incentive Program

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

Decision

The project's consumptive water use of up to 0.063 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. The daily quantity of water consumptively used shall be calculated by determining the difference between the metered public water supplied to the facility and the metered outflow leaving the facility.

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

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

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

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

g. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is

being constructed, operated, or maintained. Such employees or agents shall be authorized to conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

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

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

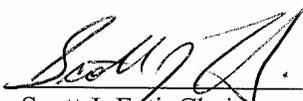
j. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

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

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: December 12, 2002



Scott J. Foti, Chairman
New York Alternate Commissioner