

INFORMATION SHEET

Susquehanna River Basin Commission

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PROTECTING PUBLIC HEALTH AND SAFETY BY FILLING IN THE REGULATORY GAPS

*"The commission shall:***Assume jurisdiction in any matter affecting water resources whenever it determines after investigation and public hearing upon due notice given, that the effectuation of the comprehensive plan or the implementation of this compact so requires. If the commission finds upon subsequent hearing requested by an affected signatory party that the party will take the necessary action, the commission may relinquish jurisdiction."*

--Section 3.5(4) of the Susquehanna River Basin Compact, P.L. 91-575; 84 Stat. 1509 et seq.

Who has the primary responsibility for managing the water resources of the Susquehanna River basin?

The primary responsibility for managing the waters of the Susquehanna falls on the three states in the Susquehanna River Basin Commission (SRBC)--New York, Pennsylvania and Maryland. The commission's compact recognizes the powers and duties of the states.

Each state, and the federal government, appoints a commissioner to represent its interest on the commission. SRBC coordinates the management of the basin's water resources to ensure that interstate issues are addressed, as well as any public health and safety concerns, including the protection of water supplies for nearby existing and downstream water users. SRBC carries out this coordinative role by:

- 1) utilizing the powers vested in the commissioners through the compact and their respective state water management agencies; and
- 2) applying the standards in SRBC's water management plan--***Comprehensive Plan for the Management and Development of the Water Resources of the Basin.***

What happens if a compact state lacks the regulatory authority or fails to carry out certain water management responsibilities?

To ensure that the requirements under the compact and SRBC's comprehensive plan are being met basinwide, SRBC is authorized by the compact to assume responsibility in any matter affecting water resources

when a compact state is unable to do so. SRBC can assume that responsibility until the state has the proper regulatory authority or is willing to carry out the water management requirements.

Each compact state has varying levels of water management regulations. Maryland regulates all aspects of water withdrawals and consumption, while New York regulates only public water suppliers withdrawing from ground and surface water sources and Pennsylvania only for surface water withdrawals by public water suppliers.

In New York and Pennsylvania, water-use issues outside of their limited statutory authority are handled by common law principles. When water-use conflicts arise, the only recourse may be through the legal system.

Has SRBC exercised its authority to assume jurisdiction to protect public health and safety?

Yes. SRBC's regulations on consumptive water use and ground and surface water withdrawals are primary examples. The absence of comprehensive regulations in New York and Pennsylvania made it necessary for SRBC to adopt these regulations to ensure the basinwide implementation of the compact and the comprehensive plan. The main purposes of these regulations are to:

- avoid conflicts between water users;
- protect public health, safety and welfare;
- control stream quality;
- consider economic development factors;
- protect fisheries and aquatic habitat;

- promote recreation;
- dilute and abate pollution;
- regulate flows and supplies of surface and ground waters; and
- protect the Chesapeake Bay.

What are SRBC's consumptive water use regulation?

Consumptive use of water means the water will be used and not returned to the Susquehanna River system, usually because it evaporates or is incorporated into products such as concrete. SRBC's consumptive use regulation requires operators of projects consuming in excess of 20,000 gallons per day over a 30-day average to either replace the amount of water used or cease consumption of Susquehanna waters during defined periods of low flow.

SRBC monitors the flows of the Susquehanna and determines when the river is at critical levels (low flows). At times of low flows, SRBC activates the consumptive water use requirements. The regulation lists a number of compliance methods for project operators, including the purchase of water storage for replacement water at public or private reservoirs or the use of ground water.

What is SRBC's water withdrawal regulation?

SRBC's water withdrawal regulation requires the withdrawal of ground or surface water in excess of 100,000 gallons per day to be approved by SRBC. Potential water users meeting this requirement must first apply to SRBC.

As part of the application approval process, SRBC may limit the amount (quantity and rate) of water withdrawn by the applicant only to the amount required to meet reasonably foreseeable needs without:

- adversely lowering streamflow levels;
- making water supply needs for competing operations unreliable;
- degrading water quality;
- adversely affecting fish, wildlife or other living resources or their habitat; or
- having a substantial adverse impact on the flows of perennial streams.

An application--also referred to as a "docket"--may be denied, or special conditions added if SRBC determines that the new withdrawal would significantly affect or interfere with an existing water user. Special conditions can include requiring the applicant to supply an alternate water supply--at the applicant's expense. When a docket is approved, the user also is required, by the regulation, to meter, monitor and periodically report the operation's water usage.

AVOCA NATURAL GAS STORAGE PROJECT

A Case Study

SRBC provided protection for existing water users where state and federal laws were insufficient.

A company proposed to consumptively withdraw about three million gallons of water per day from three large wells located in the Town of Avoca, Steuben County, N.Y. This ground water would be used to dissolve underground salt formations and deep well inject the brine, resulting in a 100 percent consumptive use of basin waters.

The concerned citizens wanted to know how they would be protected if their wells were harmed or the flows of the Cohocton River and its tributaries were reduced.

New York 's Department of Environmental Conservation and the Federal Energy Regulatory Commission lacked the sufficient authority to address the citizens' concerns. Although these agencies were involved in other aspects of the Avoca project, neither had the authority to regulate the water quantity concerns raised by the local residents. Only SRBC had that authority.

SRBC held several public hearings on this project to address the citizens' concerns. Prior to taking final action on the Avoca project, SRBC placed several conditions, requiring the applicant to, among other conditions:

- install and monitor ground water monitoring wells;
- install and monitor a stream gage on the Cohocton;
- inventory and inspect all private wells in the Cohocton River Valley;
- replace or repair any well within a 7,200 foot radius of the applicant's wells in the event of a problem; and
- cease all ground water withdrawals when the flow of the Cohocton River falls to less than 18.65 cubic feet per second.

When the applicant agreed to the conditions, SRBC approved the docket. SRBC reserves the right to reopen this docket at any time to add additional conditions, if necessary, to protect public health and safety.