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INFORMATION SHEET

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RESOLVING INTERSTATE WATER DISPUTES

"In general, the purposes of this compact are to promote interstate comity; to remove causes of possible controversy; to make secure and protect developments within the states; to encourage and provide for the planning, conservation, utilization, development, management, and control of the water resources of the basin; to provide for cooperative and coordinated planning and action by the signatory parties with respect to water resources; and to apply the principle of equal and uniform treatment to all users of water and of water related facilities without regard to political boundaries."

--Section 1.3(5) of the Susquehanna River Basin Compact, P.L. 91-575; 84 Stat. 1509 et seq.

Why do disputes over water rights arise between the states?

Both surface and ground waters flow naturally without regard to political boundaries, making water rights issues often contentious and difficult to resolve. Disputes between states over the rights of waters that flow across state boundaries have long been a part of this nation's history.

Who has the responsibility for resolving interstate water disputes?

The U.S. Supreme Court, under the authority of Article III of the Constitution, is responsible for resolving interstate water disputes. However, if an administrative mechanism exists, disputes can be resolved without going through the legal system.

The U.S. Supreme Court has heard many interstate water disputes over the years. Some well known cases include:

- *Arizona v. California* (373 U.S. 576 1963) over the waters of the Colorado River.
- *Nebraska v. Sporhase* (458 U.S. 947 1982) over the transport of ground water across state lines.
- *New Jersey v. New York* (347 U.S. 995 1954) over the waters of the upper Delaware River. This case was litigated twice and eventually drew Pa. into the dispute.

Going through the court system is costly, complex and lengthy, and often results in unpredictable, sometimes unsatisfactory, rulings. For these and other reasons, an administrative dispute settlement mechanism is often preferred.

What is an administrative mechanism?

The Congress can enact laws creating agencies, such as the Susquehanna River Basin Commission (SRBC), that have the authority to resolve water disputes administratively--avoiding the legal costs and delays. When an administrative resolution is reached, the courts cannot change the outcome unless an agency has misapplied the law or abused its discretion.

How does SRBC resolve interstate disputes?

SRBC's compact gives the Commission the authority to regulate water withdrawals from the Susquehanna River basin. The compact states that SRBC can "allocate the waters of the basin to and among the states signatory to this compact." SRBC's signatory states are New York, Pennsylvania and Maryland. Proposed water withdrawals that could have an impact on more than one of the states must first be reviewed and approved by SRBC.

The compact states may settle their differences within SRBC's administrative forum, where flexibility and water resource expertise can be applied on a case-by-case basis within the Commission's regulatory authority.

The Commission also meets bi-monthly where an on-going dialogue among the members helps to defuse potential controversies.