



SUSQUEHANNA RIVER
BASIN COMMISSION

4423 N. Front Street | Harrisburg, PA 17110-1788 | 717.238.0423 | srbc.net

NY ■ PA ■ MD ■ USA

October 1, 2019

TO ALL CONCERNED:

At the September 6, 2019, Commission meeting, the draft minutes of the June 14, 2019, Commission meeting were approved as written. Please attach this notice to your copy of the June 14, 2019, minutes.

SUSQUEHANNA RIVER BASIN COMMISSION
4423 N. FRONT ST.
HARRISBURG, PA 17110

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION
September 6, 2019
#2019-03**

The meeting was held at the Big Flats Community Center in Big Flats, New York. Commission Chair Atkinson called the meeting to order at 9:00 a.m.

ROLL CALL

Commissioners Present

Mr. Paul J. D'Amato, Region 8 Director, New York
State Dept. of Environmental Conservation
(NYSDEC)

Ms. Aneca Atkinson, Deputy Secretary, Pennsylvania
Department of Environmental Protection (PADEP)

Dr. Suzanne Dorsey, Assistant Secretary, Maryland
Dept. of the Environment (MDE)

Ms. Amy Guise, Chief, Planning Division, U.S.
Army Corps of Engineers, (USACE) Baltimore
District

**Alternate Commissioners
Present**

Mr. Saeid Kasraei, Program Administrator, Water
Supply Program, MDE

Staff Present

Mr. Andrew D. Dehoff, Executive Director

Mr. Andrew J. Gavin, Deputy Executive Director

Ms. Marcia Hutchinson, Director, Administration
& Finance

Mr. Jason Oyler, General Counsel and Secretary

Mr. Gene Veno, Director, Governmental Affairs &
Public Advocacy

Mr. John W. Balay, Manager, Planning &
Operations

Mr. Todd D. Eaby, Manager, Project Review

Mr. Jeremy Hoffman, Manager, Compliance &
Enforcement

Mr. Brydon Lidle, Manager, Information
Technology

Mr. Curtis Sebastian, Assistant Counsel

1. Opening Remarks

Commission Chair Atkinson opened the meeting by outlining the rules of conduct for the meeting. She noted that a public hearing was previously held on August 1, 2019. The Commissioners introduced themselves.

2. Presentation – Stewardship of the Big Flats Water System

Edward Fairbrother, Town Supervisor of Big Flats, offered a presentation focusing on the stewardship of the Big Flats, New York water system.

3. Minutes of June 14, 2019, Commission Meeting

On a motion by Commissioner D’Amato, seconded by Commissioner Guise, the minutes of the regular business meeting of June 14, 2019, were unanimously approved as written.

4. Proposed Rulemaking Consumptive Use Regulation

General Counsel Jason Oyler presented a rulemaking proposal, which would make revisions to the consumptive use regulations at 18 CFR § 806.22 designed to better define standards for consumptive use mitigation and to encourage the re-use of stormwater and wastewater in its Approval by Rule program. In addition, as a companion to this rulemaking, the Commission would also release a revised draft policy for Consumptive Use Mitigation to be open for public comment simultaneously with this proposed rulemaking. Mr. Oyler outlined the major changes in the policy.

Commissioner Dorsey moved and Commissioner D’Amato seconded a motion to authorize staff to publish the proposed rulemaking in the member jurisdiction notice publications, schedule a public hearing, and set a 60-day comment period on a final rulemaking action to be proposed at a future Commission meeting. The motion was unanimously approved.

5. Contracts and Grants

Ms. Hutchinson presented the following requests:

a. Grant Approval – Chesapeake Bay Program (Pennsylvania Department of Environmental Protection)

Staff requested that the Commission approve the signing of this grant agreement. Through this grant, staff will continue to assist the Pennsylvania Department of Environmental Protection (PADEP) in its Total Maximum Daily Load (TMDL) program and the Sediment and Nutrient Assessment (SNAP) component of its Chesapeake Bay Watershed program. Specifically, staff will continue developing and working on TMDLs to address impaired streams within the Susquehanna River Basin. Staff will also continue closely coordinating with PADEP’s Central Office and South-central Regional office in piloting the multi-year Alternative Restoration Plan in the extensively-impaired Chiques Creek watershed, including providing on-going operation and maintenance of two real-time continuous in-stream monitoring (CIM) stations in the watershed. Staff will continue to conduct monthly and periodic high flow stormwater sampling at Pennsylvania's six Susquehanna River Basin SNAP monitoring sites and to analyze and report flow-adjusted trends for sediment and nutrient loads within the Susquehanna River Basin. This scope of work also includes support of Abandoned Mine Drainage/Waterways Assessment activities. PADEP will provide \$490,214, the total estimated cost of this project.

b. Grant Approval - Water Quality Protection and Pollution Prevention (U.S. Environmental Protection Agency)

Staff requested that the Commission approve the signing of this grant agreement. Through this grant, staff will continue to establish and maintain adequate measures for the prevention and control of surface water pollution and implement EPA approved Clean Water Act Section 106 program activities. Some of these activities include performance of subbasin surveys and large waters assessments, continued study of American eel restoration efforts, monitoring of nonpoint source BMPs, abandoned mine drainage restoration activities, coordination of source water protection efforts, GIS and data management, and water quality coordination, public participation and outreach. USEPA will provide \$588,000 of the funding with SRBC providing \$47,847 for a total of \$635,847.

c. Assessment of Environmental Flow Enhancements at USACE Reservoirs in the Susquehanna River Basin (U.S. Army Corps of Engineers)

Staff requested authorization to enter into an agreement with the U.S. Army Corps of Engineers (USACE), Baltimore District, under the planning assistance to states program, to participate as a non-federal sponsor in the second phase of a study to assess opportunities for improving environmental flows at USACE reservoirs in the Susquehanna River Basin. Significant changes have occurred in the six (6) major subbasins since the initial construction of the fifteen (15) USACE operated reservoirs. Furthermore, despite recent advances in environmental flow science, no specific study has been conducted to evaluate opportunities for improving environmental flows. Under Phase One of this project, the USACE and SRBC reviewed existing Water Control Plans (WCPs) and evaluated reservoir operations to identify opportunities for improving environmental flows for applicable reservoirs. A matrix was developed which outlines operational specifications and associated opportunities for improving environmental flows. The modeling packages needed to evaluate potential operational enhancements were selected, and criteria for assessing the benefits and impacts of potential operational enhancements were developed. Under Phase Two, USACE and SRBC will use the matrix developed in Phase One to identify required model runs, and will develop a set of specific recommendations for improving environmental flows at reservoirs. These recommendations will be group accordingly to whether or not they could be implemented by utilizing existing operational flexibility, or by updating WCPs. SRBC funding will be provided by the Water Management Fund. USACE will provide \$50,000 toward this effort. SRBC will provide \$100,000 from the Water Management Fund.

On a motion by Commissioner D'Amato and seconded by Commissioner Dorsey, the acceptance of the grant approvals and agreement were unanimously approved.

6. Sunoco Pipeline L.P. Proposed Settlement

General Counsel Jason Oyler provided information on a recent settlement with Sunoco Pipeline L.P. Staff presented a Consent Order and Agreement and proposed settlement from Sunoco Pipeline L.P. related to the Mariner East Pipeline project. Since the settlement is above the \$25,000 threshold it was brought to the Commissioners for approval.

Sunoco self-identified that they exceeded the Commission's regulatory threshold for consumptive use sometime in 2017. After working with Sunoco, they sought approval for the consumptive use through the Approval by Rule program. All applications have been made and been issued. A settlement in the amount of \$75,000 has been agreed upon by the Commission and Sunoco.

A representative of Sunoco was present and answered questions regarding this settlement.

On a motion by Commissioner Guise and seconded by Commissioner D'Amato, the acceptance of the Consent Order and Agreement and settlement with Sunoco was unanimously approved.

7. Report on a Delegated Settlement

Compliance Manager Jeremy Hoffman reported on one delegated settlement to resolve compliance and enforcement matters that was entered into within the last quarter pursuant to Commission Resolution No. 2018-08.

A settlement with Henkel US Operations Corporation (Henkel):

- Henkel operations a soap and detergent manufacturing facility in Luzerne County, Pa.
- During a routine compliance inspection and records audit, staff noted inconsistencies in use date and data provided during the audit.
- Notice of violation was issued for failure to adhere to the approved consumptive use accounting methodology and failure to maintain a continuous and accurate record of consumptive use.
- Source of water is Hazelton City Authority.
- No indications of environmental harm were identified.
- Settlement includes mitigation for under-reported consumptive use.
- The settlement is \$5,000.

8. Emergency Certificate Extension – Brymac, Inc.

Project Review Manager Todd Eaby presented Resolution No. 2019-12 (Exhibit A) providing for the extension of an emergency certificate that was previously issued to Brymac, Inc. Staff requests that the emergency certification be extended to October 31, 2019 or until terminated by the Executive Director, whichever occurs sooner. The same conditions that led to issuance of the original emergency approval persist and necessitate an extension of the emergency approval.

Commissioner Dorsey made a motion that was seconded by Commissioner Guise to accept this emergency certificate extension. The resolution was adopted by unanimous vote.

9. Docket Actions

Mr. Eaby presented a staff memorandum containing details and recommendations regarding the following list of project applications:

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| 1. Aqua Pennsylvania, Inc. (Well ER-8) Schuylkill County, Pa. (Exhibit B1) | 10. Pennsylvania State University (Well UN-33) Centre County, Pa.14. |
| 2. Chester Water Authority (East Nottingham Township) Chester County, Pa. | 11. Pennsylvania State University (Well UN-34) Centre County, Pa. |
| 3. Chief Oil & Gas LLC (Loyalsock Creek) Sullivan County, Pa. (Exhibit B2) | 12. Pennsylvania State University (Well UN-35) Centre County, Pa. |
| 4. Dillsburg Area Authority (Well 4) York County, Pa. (Exhibit B3) | 13. Repsol Oil & Gas USA, LLC (Wappasening Creek) Bradford County, Pa. (Exhibit B8) |
| 5. Dover Township (Well 9) York County, Pa. (Exhibit B4) | 14. Rockdale Marcellus, LLC (Lycoming Creek) Lycoming County, Pa. (Exhibit B9) |
| 6. Duncannon Borough (Well 7) Perry County, Pa. (Exhibit B5) | 15. Seneca Resources Company, LLC (Marsh Creek) Tioga County, Pa. (Exhibit B10) |
| 7. Elk Mountain Ski Resort, Inc. (Unnamed Tributary to East Branch Tunkhannock Creek) Susquehanna County, Pa. (Exhibit B6) | 16. XTO Energy Inc. (West Branch Susquehanna River) Clinton County, Pa. (Exhibit B11) |
| 8. Pennsylvania General Electric Company, L.L.C. (Loyalsock Creek) Lycoming County, Pa. (Exhibit B7) | 17. Chester Water Authority, (Susquehanna River and Octoraro Reservoir) Chester County, Pa. |
| 9. Pennsylvania State University (College Township) Centre County, Pa. | Highlight = tabled. |

Commissioner D’Amato moved and Commissioner Guise seconded a motion that the Commission adopt the recommendations of staff for the 17 project applications, 6 of which were tabled. The motion was unanimously approved.

ADJOURNMENT

A motion to adjourn was made by Commissioner Dorsey and seconded by Commissioner D’Amato. Commission Chair Atkinson adjourned the meeting at 9:50 a.m.

December 5, 2019
Date Adopted


Jason E. Oyler
Secretary to the Commission