

RESOLUTION NO. 2008-03

A RESOLUTION of the Susquehanna River Basin Commission providing for an increase in the Commission's Consumptive Use Mitigation Fee.

WHEREAS, under Susquehanna River Basin Commission (the "Commission") Regulation 18 CFR §806.22(b) (3), monetary payment to the Commission is an acceptable method of consumptive use mitigation; and

WHEREAS, by Resolution No. 92-10 of May 14, 1992, the Commission adopted a Consumptive Use Mitigation Fee of \$.14 per 1,000 gallons of water consumed, effective January 1, 1993; and

WHEREAS, since that time, the payment of the fee has become the most frequently-used method of compliance with the mitigation requirements of 18 CFR §806.22; and

WHEREAS, in the 16 years since adoption of the \$.14 rate, inflation has reduced its present value to only \$.08 and will continue to erode its value without some provision for periodic adjustment; and

WHEREAS, an important purpose of the fee is to enable the Commission to accrue sufficient funds to finance the acquisition and maintenance of projects for storage and release of water pursuant to Article 4, Section 4.2 of the Susquehanna River Basin Compact, Pub. L. 91-575; and

WHEREAS, economic analysis has demonstrated that the cost to acquire water storage at seven selected storage facilities in the basin ranges between \$.26 and \$.28 per 1,000 gallons of water storage; and

WHEREAS the current rate of \$.14 per 1,000 gallons consumed does not reflect the true cost of acquiring storage and release and therefore does not provide sufficient economic incentive for project sponsors to seek out storage and release sites that could provide more localized mitigation for consumptive use; and

WHEREAS, the responsibility to locate and acquire suitable facilities for storage and release of water is expected to fall increasingly upon the Commission as the amount of consumptive use continues to increase in the Susquehanna River Basin through the year 2025; and

WHEREAS, the Commission has held a public hearing upon due notice and has accepted written comments from the regulated community and the public on the proposed rate increase; and

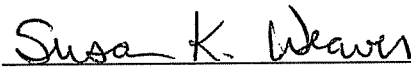
WHEREAS, in response to comments received from the regulated community on its need to plan ahead for increased costs, the Commission has decided to phase in the increase to \$.28 per thousand gallons consumed over a two year period; and

WHEREAS, in response to further comments received from the regulated community urging that the Commission tie future inflationary adjustments to a defined index or formula, or otherwise provide more certainty with regard to future adjustments for budgeting purposes, the Commission has decided to identify adjustments to take place thereafter using recent indexing trends identified by the U.S. Army Corps of Engineers Civil Works Construction Cost Index System.

NOW THEREFORE BE IT RESOLVED THAT:

1. Pursuant to Commission Regulation 18 CFR §806.22(b)(3), the Commission's Consumptive Use Mitigation Fee is hereby established at the following rates for the next two calendar years identified below:
  - 2009 - \$.21 per thousand gallons of consumptive water use
  - 2010 - \$.28 per thousand gallons of consumptive water use
2. Thereafter, the Consumptive Use Mitigation Fee shall be adjusted annually based on the U.S. Army Corps of Engineers Civil Works Construction Cost Index System average for the immediately previous four quarters for which indexing data are available.
3. In 2013, and periodically thereafter, the staff is directed to re-evaluate the cost of acquiring and maintaining water storage and recommend any additional adjustments to the Consumptive Use Mitigation Fee as may be appropriate.
4. The Commission's current Consumptive Use Mitigation Fee rate of \$.14 per thousand gallons of consumptive water use shall remain in effect through December 31, 2008.
5. This Resolution shall be effective immediately.

Dated: June 12, 2008

  
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Susan K. Weaver, Chair  
Pennsylvania