

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



Docket No. 20010803

Approval Date: August 9, 2001

**PEAK RESORTS, INC.
dba GREEK PEAK MOUNTAIN RESORT**

Surface-Water Withdrawal of up to 5.50 mgd from Gridley Creek;
and an associated Consumptive Water Use of up to 1.21 mgd, for Snowmaking,
Town of Virgil, 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, §803.42, relating to the consumptive use of water, and §803.44, relating to surface-water withdrawals. The application for the consumptive use of water was received by the Commission on February 12, 2001, and the application for the surface-water withdrawal was received on May 1, 2001.

Description

Purpose. The applicant has requested approval of a seasonal surface-water withdrawal and the consumptive use of that water for snowmaking at a ski resort.

Location. The project is located adjacent to the Susquehanna River Basin divide in the Town of Virgil, Cortland County, New York.

Project Features. The applicant has requested approval for the seasonal withdrawal of a 30-day average of 1.00 million gallons per day (mgd) of water, a maximum daily withdrawal of 5.50 mgd, and a maximum daily consumptive use of water of 1.21 mgd. Water will be pumped from Gridley Creek, as needed, to be used by the resort's snowmaking system. The snowmaking season typically runs from mid-November to mid-March.

In 1999 and 2000, respectively, the applicant applied for and received a New York State Department of Environmental Conservation (N.Y. DEC) permit to construct Hope Lake, a moderately-sized recreational lake on a tributary to Gridley Creek upstream of the snowmaking water withdrawal point. Hope Lake has a surface area of approximately 24 acres and holds about 160 million gallons of water. The applicant plans to utilize approximately one-half of the

storage volume from this new reservoir, as needed, for snowmaking when the natural flows in Gridley Creek are at low levels.

Prior to the construction of Hope Lake, the applicant relied on three wells to supplement water needs when the natural flows in Gridley Creek were low. These wells are no longer used as a supplemental water source.

Coordination. Commission staff has coordinated the review of instream impacts associated with the Gridley Creek surface-water withdrawal and the development of an instream flow recommendation with the N.Y. DEC.

Findings

The project's consumptive water use and surface-water withdrawal are subject to Commission approval and reporting requirements as per Commission Regulations §803.42 and §803.44, respectively.

The applicant began using water consumptively for snowmaking in 1965. The water used over the years was a combination of water withdrawn directly from Gridley Creek and from three wells. The existing surface-water withdrawal from Gridley Creek did not require Commission approval because it pre-dated the November 11, 1995, effective date of Commission Regulation §803.44, related to standards for surface-water withdrawal. However, with the completion of Hope Lake, the applicant plans to take all water necessary for the snowmaking operation directly from Gridley Creek. The substantially increased surface-water withdrawal requires Commission approval, and the applicant has submitted the necessary surface-water withdrawal application. Once approved, the applicant plans to abandon the three wells previously used to supply a portion of the water needed for snowmaking.

The applicant will meter the water withdrawn from Gridley Creek. Of the amount of water withdrawn for snowmaking, 22 percent is determined to be used consumptively.

The applicant estimates that, prior to the effective date of the Commission regulations, approximately 3.17 mgd of water was the maximum daily quantity of water withdrawn and utilized for making snow. The pre-1971 consumptive water use by the applicant was determined to be 0.70 mgd, and this quantity is considered to be "grandfathered." The quantity of consumptive water use at the ski resort, minus 0.70 mgd, represents the project's consumptive water use that is subject to the water compensation requirements.

The consumptive use of water by the project is subject to water compensation requirements as per Commission Regulation §803.42. To satisfy these requirements, the applicant has agreed to cease withdrawal of the natural flow in Gridley Creek when that flow is less than the passby requirement established below. When this condition occurs, the applicant is planning to release water from Hope Lake to augment the natural flow in Gridley Creek. The applicant is planning to release only that quantity of water necessary for snowmaking and to cease releases when the natural flow of Gridley Creek is sufficient to meet all demands. The applicant is limited by the N.Y. DEC permit for Hope Lake to releasing water so that the resulting drawdown does not exceed five feet in any week.

In assessing the impact of the proposed increase to the surface-water withdrawal, Commission staff analyzed the hydrologic characteristics of the Gridley Creek watershed by utilizing streamflow gages on both Gridley Creek above East Virgil, N.Y., and on Albright Creek at East Homer, N.Y. As a result of these analyses, staff estimates that the average annual daily flow rate at the withdrawal point is approximately 13.7 cubic feet per second (cfs) and the minimum daily flow rate (November through April) is approximately 1.0 cfs.

N.Y. DEC personnel from the Instream Flow Unit in Albany, N.Y. visited the site on July 6, 2001. Based on this field investigation and an examination of the stream flow data for the two gages previously mentioned, N.Y. DEC personnel have recommended that a passby flow of 3.5 cfs be applied at the withdrawal point. This represents approximately 25 percent of the average annual daily flow value.

N.Y. DEC and SRBC staff recognize that the flows in Gridley Creek will, on occasion, naturally drop below 3.5 cfs during mid-November to mid-March. Based on the hydrologic analyses discussed above, staff estimates that minimum average daily flow for this period would be 1.0 cfs. When flow in the stream below the withdrawal point is less than 3.5 cfs, staff recommends that the entire natural flow of Gridley Creek be allowed to pass by the withdrawal point.

During these low flow periods, the applicant plans to release water from Hope Lake in order to provide water needed for snowmaking operations. The water would flow into Gridley Creek for subsequent withdrawal by the applicant. While staff agrees that the applicant should be able to use water stored in Hope Lake for its snowmaking operations, this withdrawal must not cause streamflow to decline below the seasonal minimum daily flow rate described above.

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

The applicant has elected to pay the application fee in installments, pursuant to Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The applicant has paid the first annual installment and will be invoiced for the balance over the next two years. The applicant has provided all proofs of notification, as called for in 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 applicant is eligible to participate in the Commission's Compliance Incentive Program. Therefore, the applicant is not subject to any penalties for water consumed in violation of Commission Regulation 803.42 prior to January 1, 2001.

Decision

The surface-water withdrawal from Gridley Creek of up to 5.50 mgd, when available, and the subsequent consumptive use of that water up to 1.21 mgd is approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The applicant shall comply with all Commission regulations, including consumptive water use reporting requirements as per Commission Regulation §803.42 and surface-water withdrawal and reporting requirements as per Commission Regulation §803.44.

b. The applicant shall keep daily records of the project's withdrawal from Gridley Creek, its consumptive water use, and the amount of water released from Hope Lake for the purpose of snowmaking, and shall provide the results to the Commission quarterly, and as otherwise required. The applicant shall either install or continue to operate and maintain existing measuring and recording devices to determine the amount of water withdrawn from Gridley Creek. The measuring devices shall be accurate to within five percent. Commission staff shall review and approve of said measuring devices before any increase in the historic withdrawal is initiated.

c. To satisfy the Commission's current compensation requirements for consumptive use set forth in Commission Regulation §803.42, the applicant shall adhere to a passby flow requirement of 3.5 cfs (2.26 mgd) at the point of water withdrawal from Gridley Creek. The applicant shall either install or continue to operate and maintain existing measuring and recording devices to measure and record the amount of flow in Gridley Creek below the withdrawal point.

Additionally, the applicant shall either install devices or provide means to measure the amount of water withdrawn from Hope Lake. The measuring devices shall be accurate to within five percent. The design and layout of any existing measuring devices shall be submitted to, and be approved by, the Commission. If new measuring devices are installed, the design and layout of said measuring devices shall be submitted to, and be approved by, the Commission before installation, and shall be installed prior to any withdrawal from Gridley Creek.

The applicant shall provide the records of daily streamflow readings and Hope Lake releases to the Commission quarterly, and as otherwise requested. Except as provided below when the flow in the stream below the withdrawal point is less than 3.5 cfs, no water may be withdrawn from Gridley Creek, and the entire natural flow of Gridley Creek shall be allowed to pass by the withdrawal point. If, during such low flow periods, the applicant releases water from Hope Lake to augment flows in Gridley Creek, the applicant will be allowed to withdraw from Gridley Creek an amount of water up to the quantity of water released from Hope Lake. Under no circumstances shall the withdrawal of water from Gridley Creek cause the flow in the stream below the withdrawal point to drop below 1.0 cfs.

d. The applicant shall comply with water conservation requirements as per Commission Regulation §804.20 (b).

e. This action shall not be construed to exempt the applicant 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 applicant fails to obtain or maintain such approvals.

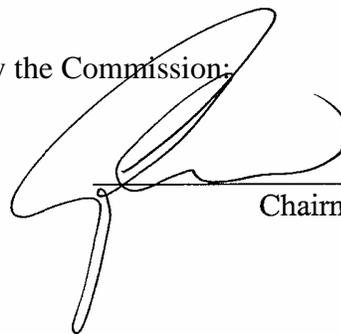
f. If the project applicant fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same. Upon written notice by the Commission, the project applicant shall have thirty (30) days to correct such noncompliance, unless an alternate period 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 applicant 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.

g. The Commission reserves the right, based upon new findings, 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. Commission approval confers no property rights upon project sponsors.

h. This approval is effective until August 9, 2026. The applicant shall submit a renewal application by February 9, 2026, and obtain Commission approval prior to continuing operation beyond August 9, 2026.

i. 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 applicant and approved by the Commission.

By the Commission:



Chairman

Date: August 9, 2001