



SUSQUEHANNA RIVER BASIN COMMISSION

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Docket No. 20021006

Approval Date: October 10, 2002

EAGLE ROCK SKI AND GOLF RESORT

Ground-Water Withdrawal of 0.800 mgd (30-Day Average) From an Abandoned Quarry, and a Consumptive Water Use of Up to 0.450 mgd, for Snowmaking and Golf Course Irrigation, Black Creek and Hazle Townships, Luzerne County, and East Union Township, Schuylkill County, Pennsylvania

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 §803.43, relating to ground-water withdrawals. The Commission received the applications for the consumptive use of water and for the ground-water withdrawal on August 25, 2000.

Description

Purpose. The purpose of the applications is to request approval for a ground-water withdrawal and the consumptive use of that water for snowmaking at an existing ski area and for irrigation of greens, tees, and fairways at an existing 18-hole golf course.

Location. The project is located in the Middle Susquehanna Subbasin, HUC 02050107, Tomhicken Creek Watershed, Black Creek and Hazle Townships, Luzerne County, and East Union Township, Schuylkill County, Pennsylvania.

Project Features. The project sponsor has requested approval for a withdrawal of 0.800 million gallons per day (mgd) of water (30-day average) from an abandoned quarry (strip mine), and a ground-water consumptive use of water of up to 0.450 mgd. Based on golf course irrigation data submitted by the project sponsor for the year 2002, the golf course has a maximum average 30-day consumptive use of water of 0.129 mgd and a current peak-day consumptive water use of 0.268 mgd. Daily-metered data for snowmaking were not available, however, the project sponsor estimates a peak-day consumptive water use of 0.450 mgd and a peak-day withdrawal of 2.0 mgd.

The primary source of water is an abandoned quarry that is located at the headwaters of an unnamed tributary to Tomhicken Creek. The abandoned quarry receives water from ground

water and stormwater runoff. A meter for irrigation and snowmaking water usage was installed in 2001.

The project sponsor constructed the ski area in 1997, which has been in continuous operation since that time. The 18-hole golf course was constructed from 1997 to 1999, and has been in continuous operation since that time. As part of these projects, the project sponsor used an abandoned quarry with no significant surface-water inflow to provide water at the site. Commission staff has calculated the surface area of the quarry pond to be 5.7 acres. The volume available for use is approximately 36 million gallons, which is sufficient storage for approximately 202 days of golf course irrigation, based on the estimated maximum 30-day average use, or 18 days of snowmaking, based on the peak-day usage of 2.0 mgd. The project sponsor has withdrawn water from the quarry over the life of the projects without maintaining any passby or constant release of water to the unnamed tributary to Tomhicken Creek.

One pump station, installed in 1997, provides water for golf course irrigation and snowmaking. Water is pumped directly from the abandoned quarry to either the snowmaking equipment or the irrigation system. Distribution is regulated by valves. Current water withdrawal from the abandoned quarry is accomplished via a three-pump system that has a rated capacity of 2,250 gpm.

Findings

The project is subject to the Commission approval and reporting requirements, as per Commission Regulations §803.42 and 803.43, respectively.

All water withdrawn from the abandoned quarry and used for golf course irrigation is considered to be used consumptively. Water withdrawn from the abandoned quarry and used for snowmaking is considered to be used consumptively at a rate of 22 percent of total withdrawal. The irrigation and snowmaking systems have a meter that measures the quantity of water pumped.

The project sponsor has requested a consumptive water use approval of up to 0.450 mgd. Based on an analysis of data supplied by the project sponsor, Commission staff is recommending approval of the requested amount. Should the project's future consumptive water use exceed or be expected to exceed 0.450 mgd, the project sponsor must apply for a modification to this docket at that time.

The unnamed tributary to Tomhicken Creek is classified as a cold-water fishery (CWF) (25 Pa. Code Chapter 93) with an annual average daily flow (ADF) rate at the site of 0.482 cubic feet per second (cfs), or 216 gallons per minute (gpm). Commission staff has calculated the 7-day 10-year low flow (Q7-10) in the unnamed tributary to Tomhicken Creek to be 0.025 cfs, or 11.2 gpm. Based on the project's classification as CWF and Pennsylvania Fish and Boat Commission's determination that it is a Class D wild trout stream, its geographic location in the watershed and the anticipated associated fishery of brown trout and combined species of fish, Commission staff used the Instream Flow Incremental Methodology (SRBC Publication No. 191, May 1998) to determine the appropriate instream flow requirement for the unnamed

tributary to Tomhicken Creek at this site. Based on the findings from the methodology, Commission staff recommends a passby flow of 45 percent of annual ADF, which is equal to 97.4 gpm. This will allow for no more than a 15 percent loss of habitat in the unnamed tributary to Tomhicken Creek.

The sole source of water is a ground-water withdrawal from an abandoned quarry that has no significant surface-water inflow. According to Commission staff's analysis, quarry storage will not be sufficient to meet the project sponsor's snowmaking needs while allowing for the release of water from the dam to mitigate the ground-water withdrawals impact to the unnamed tributary to Tomhicken Creek. Based on this finding, Commission staff recommends that the project sponsor initiate a study to identify that sufficient storage exists to maintain the release or identify other sources of water to address this deficiency.

Commission staff recommends, as an interim measure, that the project sponsor allow a release of water equal to the calculated Q7-10 flow at the quarry outfall of 11.2 gpm, pending the results of the water supply study. This interim protective measure shall expire two years from the date of this approval.

The project's consumptive use of water for golf course irrigation and 22 percent of the water used for snowmaking is subject to water compensation requirements, as per Commission Regulation §803.42. To satisfy these requirements, the project sponsor proposes to make quarterly payments to the Commission in-lieu-of providing actual compensation water. The payment will be based on the daily quantity of water used.

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

The project sponsor has paid the appropriate application fee in accordance with Commission Regulation §803.28 and in accordance with Commission Resolution 98-19, as amended by Commission Resolution 2000-06. The project sponsor 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 project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor would not be subject to penalties for water withdrawn and consumed in violation of Commission Regulations §803.42 and §803.43 prior to January 1, 2001. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all consumptive water used by the project beginning January 1, 2001.

Decision

The project's ground-water withdrawal of up to 0.800 mgd (30-day average) from the abandoned quarry, and the consumptive water use of up to 0.450 mgd are approved pursuant to Article 3, Section 3.10 of the Compact subject to the following conditions:

a. The project sponsor shall comply with all Commission regulations, including consumptive water use reporting requirements, as per Commission Regulation §803.42, and ground-water withdrawal reporting requirements, as per Commission Regulation §803.43.

b. The project sponsor shall keep daily records of the project's consumptive water use, and shall report the data to the Commission quarterly, and as otherwise required. The daily quantity of water consumptively used shall be the quantity withdrawn from the quarry and pumped to the irrigation system and 22 percent of that pumped to the snowmaking system. The project sponsor shall maintain metering on the irrigation and snowmaking systems, accurate to within five (5) percent.

c. The project sponsor shall keep daily records of the metered withdrawal from the abandoned quarry and weekly water levels from the abandoned quarry. The required reporting data shall be submitted to the Commission quarterly, and as otherwise required. The project sponsor shall maintain the existing meter, accurate to within five (5) percent, on the pumping station. The Commission reserves the right to inspect all measurement equipment and audit all measurement records.

d. The maximum instantaneous rate of production from the abandoned quarry shall not exceed 2,250 gpm.

e. The project sponsor shall maintain a downstream release of water from the abandoned quarry of 0.217 cfs (97.4 gpm). The project sponsor shall install flow measurement devices that measure the outflow of the abandoned quarry. The project sponsor shall keep daily records of the outflow of the abandoned quarry and shall report the data to the Commission quarterly, and as otherwise required, except as provided for in condition (h).

f. The project sponsor shall submit its design and a proposed construction schedule for the flow measurement devices within sixty (60) days of the date of this approval for review and approval by Commission staff prior to any construction. Following approval, the project sponsor shall complete construction in accordance with the approved schedule and shall certify to the Commission that construction has been completed in accordance with the approved design. The flow release system shall be kept fully functional and free of debris. The Commission reserves the right to inspect the passby flow device and the flow measurement devices at any time.

g. The project sponsor shall immediately initiate a study to investigate the adequacy of the abandoned quarry source and identify that sufficient on-site storage exists or develop a plan to address any supply deficiencies. The results of this study and a plan to address any supply deficiencies shall be submitted to the Commission within six (6) months from the date of this

approval. The plan shall be accompanied by the appropriate application(s) needed for the approval of any supplemental sources identified in the plan.

h. The project sponsor shall, as an interim measure, be allowed to continue to withdraw water from the abandoned quarry during times when streamflow leaving the quarry is less than 45 percent of ADF, but is not less than the calculated Q7-10 flow of 11.2 gpm, pending the results of the water supply study. This interim protective measure shall expire two (2) years from the date of this approval.

i. To satisfy the Commission's current compensation requirements for consumptive water use set forth in Commission Regulation §803.42, the project sponsor shall make quarterly payments to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used by the project. The daily quantity of water consumptively used shall be the quantity withdrawn from the quarry and pumped to the irrigation system and 22 percent of that pumped to the snowmaking system. Payments shall be made quarterly and shall be calculated by applying this rate to the daily amount of water consumptively used by the project during the preceding calendar quarter. Quarterly payments are due and payable within thirty (30) days after the close of the preceding quarter. The rate of payment, after appropriate notice to consumptive users of water using this method of compliance, is subject to change at the Commission's discretion.

j. The project sponsor shall comply with the water conservation requirements contained in Commission Regulation §804.20(b) and (c).

k. The project sponsor is eligible to participate in the Commission's Compliance Incentive Program (CIP). Therefore, the project sponsor is not subject to penalties for its prior noncompliance. In accordance with the CIP, payment to the Commission as a method of compensation for the project's consumptive water use shall be effective and applicable to all water consumptively used by the project beginning January 1, 2001. The project sponsor shall provide records of its consumptive water use and make a payment to the Commission based on the rate of \$0.14 per 1,000 gallons of water consumptively used during the period from January 1, 2001, until the effective date of this approval. This payment shall be calculated and included in the first quarterly payment made by the project sponsor in accordance with the requirements of condition (i) above.

l. Commission approval shall not be construed to exempt the project sponsor 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 project sponsor fails to obtain or maintain such approvals.

m. The Commission reserves the right to inspect or investigate the project facility, and the project sponsor shall allow authorized employees or agents of the Commission, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated, or maintained. Such employees or agents shall be authorized to

conduct tests or sampling, to take photographs, to perform measurements, surveys, and other tests, to inspect the methods of construction, operation, or maintenance, to inspect all measurement equipment, to audit, examine, and copy books, papers, and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated, or maintained in accordance with the terms and conditions of this approval or any other rule, regulation, or order of the Commission.

n. If the project sponsor fails to comply with any term or condition of this docket, the Commission may suspend, modify, or revoke its approval of same, and may impose appropriate fines and penalties. Upon written notice by the Commission, the project sponsor 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 sponsor 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, or from imposing fines and penalties, regardless of the period of noncompliance.

o. The Commission reserves the right to reopen any project docket or issue such additional orders, as may be necessary, to mitigate or avoid adverse impacts or otherwise to protect public health, safety, welfare, or the environment.

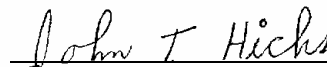
p. Commission approval confers no property rights upon the project sponsor. The securing of all rights necessary and incident to the project sponsor's development and operation of the project shall be the sole and exclusive responsibility of the project sponsor, and this approval shall be subject thereto.

q. This approval is effective until October 10, 2027. The project sponsor shall submit a renewal application by April 10, 2027, and obtain Commission approval prior to continuing operation beyond October 10, 2027.

r. 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 project sponsor and approved by the Commission.

By the Commission:

Dated: October 10, 2002



 John T. Hicks, Chairman
 New York Commissioner