



# SUSQUEHANNA RIVER BASIN COMMISSION

4423 North Front Street • Harrisburg, Pennsylvania 17110-1788

(717) 238-0423 Phone • (717) 238-2436 Fax

[www.srbc.net](http://www.srbc.net)

**Docket No. 20190907**

**Approval Date: October 9, 2003**

**Modification Date: December 14, 2005**

**Modification Date: September 6, 2019**

## **ELK MOUNTAIN SKI RESORT, INC.**

**Surface Water Withdrawal (30-Day Average) of up to 5.760 mgd  
from an Unnamed Tributary to East Branch Tunkhannock Creek, and  
Consumptive Use (30-Day Average) of up to 1.267 mgd from an Unnamed Tributary to  
East Branch Tunkhannock Creek and East Branch Tunkhannock Creek**

### **Section 1. Approval**

After review of the record, including the technical findings of Susquehanna River Basin Commission (Commission) staff, the Commission has determined that no significant adverse impacts are anticipated by the operation of this project as described and conditioned herein, the project is physically feasible, and does not conflict with or adversely affect the Commission's Comprehensive Plan. Accordingly, the Commission hereby approves modification of the project described herein in accordance with the conditions set forth below.

This approval is a modification of Commission Docket No. 20031003 that was originally approved October 9, 2003, and modified on December 14, 2005, with a peak day withdrawal rate of 5.760 million gallons per day (mgd) from an unnamed tributary to East Branch Tunkhannock Creek and consumptive use of up to 1.267 mgd (peak day). The project sponsor requested a change from a peak day withdrawal basis to a 30-day average withdrawal basis, and an associated increase in the instantaneous withdrawal rate for the surface water withdrawal on an unnamed tributary to East Branch Tunkhannock Creek. Additionally, the project sponsor requested a change from a peak day basis to a 30-day average basis for its consumptive use limit. Following technical review, and consistent with applicable regulatory standards, Commission staff recommended approval of the requested modifications. This approval incorporates those recommendations.

The project sponsor presently maintains a system of six ponds. The Main Storage Pond is an on-stream pond located on an unnamed tributary to East Branch Tunkhannock Creek. Two off-stream storage ponds (Moore Pond and New Pond 2) near East Branch Tunkhannock Creek are used to supplement water to the Main Storage Pond. The project also includes three off-stream storage ponds (Ponds 1, 2, and 3) that are connected in series and can be drained into the Main Storage Pond by an underground pipe. The project sponsor is separately approved to withdraw up to 2.160 mgd, when available, from East Branch Tunkhannock Creek.

Commission staff has coordinated with the Pennsylvania Department of Environmental Protection (PADEP), the Department of Conservation and Natural Resources (DCNR), and the Pennsylvania Fish and Boat Commission (PFBC) during review of this project.

## Section 2. Project Information

Information concerning the project sponsor, water use type, and location are set forth in the table below.

<b>Project Information</b>	
<b>Project Sponsor:</b>	Elk Mountain Ski Resort, Inc.
<b>Approval Types:</b>	Surface Water Withdrawal and Consumptive Use
<b>Past Docket Nos.:</b>	20031003 and 20031003-1
<b>Authorized Water Use Purpose:</b>	Snowmaking and Related Incidental Uses
<b>Municipality:</b>	Herrick Township
<b>County:</b>	Susquehanna County
<b>State:</b>	Pennsylvania

## Section 3. Source Information

Information concerning the source of water from which the withdrawal will be made is set forth in the table below.

<b>Source Information</b>	
<b>Approved Source:</b>	Unnamed Tributary to East Branch Tunkhannock Creek
<b>Subbasin:</b>	Middle Susquehanna
<b>Watershed Boundary Dataset (WBD):</b>	0205010610 (East Branch Tunkhannock Creek)
<b>Water Use Designation:</b>	High Quality – Cold Water Fishery (HQ-CWF)
<b>Withdrawal Location (degrees):</b>	Lat: 41.725640 N      Long: 75.555571 W
<b>Wild Trout Classification:</b>	Class A
<b>Drainage Area (square miles):</b>	0.5
<b>Aquatic Resource Class*:</b>	1
<b>Special Flow Protection Required:</b>	Yes
* Refer to Commission Policy No. 2012-01 (Low Flow Protection Policy Related to Withdrawal Approvals)	

## Section 4. Approved Withdrawal Quantities and Limitations

The withdrawal approved hereunder is subject to the quantitative limits and restrictions set forth in the table below.

<b>Approved Withdrawal Quantities and Limitations</b>	
<b>30-Day Average Withdrawal (mgd):</b>	5.760 (Not to Exceed, When Available)
<b>Maximum Instantaneous Withdrawal Rate (gpm):</b>	5,600 (Not to Exceed)
<b>Flow Protection Type:</b>	Annual passby
<b>On-site Flow Protection Rate (gpm):</b>	See Special Condition 19
<b>Method for Monitoring Flow Protection:</b>	On-site monitoring of flow at spillway as measured at the Elk Mountain staff gage
1 cubic foot per second (cfs) = 448.8 gallons per minute (gpm)	

The withdrawal is also subject to all other conditions set forth in this docket approval.

### Section 5. Approved Consumptive Use Quantities and Limitations

The consumptive use approved hereunder is subject to the quantitative limits and restrictions set forth in the table below.

<b>Approved Consumptive Use Quantities and Limitations</b>	
<b>Sources for Project Consumptive Use:</b>	1. Unnamed Tributary to East Branch Tunkhannock Creek 2. East Branch Tunkhannock Creek
<b>30-Day Average Consumptive Use Amount (mgd):</b>	1.267 (Not to Exceed)
<b>Authorized Project Consumptive Uses:</b>	1. Snowmaking 2. Related incidental uses
<b>Consumptive Use Mitigation Type:</b>	Payment of consumptive use mitigation fee

The consumptive use is also subject to all other conditions set forth in this docket approval.

### Section 6. Existing Approved Withdrawal Quantities

Quantity applicable to the existing approved withdrawal is listed in the table below.

<b>Existing Approved Surface Water Withdrawals</b>			
Source	Peak Day Withdrawal (mgd)	Commission Docket No.	Docket Expiration Date
East Branch Tunkhannock Creek	2.160	20060303	March 15, 2031

### Section 7. Standard Conditions

1. The project sponsor shall comply with all Commission regulations, 18 CFR Parts 801, 806, and 808. This project is subject to the Annual Compliance and Monitoring fee as specified

in the Commission's Regulatory Program Fee Schedule, which may be modified over the term of the approval.

2. The project sponsor shall maintain the totalizing meter and other flow and volume measuring devices, accurate to within five (5) percent, so as to provide an accurate record of withdrawals and consumptive uses, and certify to the Commission once every five (5) years, or as otherwise requested, the accuracy of all measuring devices and methods to within five (5) percent of actual flow.

3. The project sponsor shall adhere to the intake design reviewed and approved by Commission staff. Any modifications proposed by the project sponsor for the permitted intake structure shall be submitted for review and, if appropriate, approval by Commission staff in accordance with 18 CFR § 806.21 and § 806.23 prior to undertaking such modification(s).

4. The project sponsor shall keep daily records of the project's withdrawal and consumptive use and shall report the data to the Commission quarterly, and as otherwise required, in the form and manner as prescribed by Commission staff. Quarterly monitoring reports shall be submitted online and are due within thirty (30) days after the close of the preceding quarter. Any alternative measuring, monitoring, or accounting procedure requested by the project sponsor shall be submitted for review and approval by Commission staff in accordance with 18 CFR § 806.30. Modifications shall not be made until the project sponsor receives written approval of the amended plan. All data collected and submitted as required under this approval shall be maintained by the project sponsor for the duration of the approval and all subsequent renewals.

5. The project's consumptive use is subject to mitigation requirements, as per 18 CFR § 806.22(b). For the purposes of this project, 0.165 mgd was determined to be the project's pre-1971 consumptive use and is considered to not be subject to consumptive use mitigation requirements. To satisfy the Commission's current mitigation requirements for consumptive use, the project sponsor shall make quarterly payments to the Commission at the rate specified in the effective Regulatory Program Fee Schedule, as modified from time to time by the Commission. Payments shall be made quarterly and shall be calculated by applying this rate to the total 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.

6. The project sponsor or any other person representing the project sponsor shall allow authorized employees or agents of the Commission, without advance notice, 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, or otherwise exercise all investigative powers authorized under 18 CFR § 808.12.

7. In accordance with 18 CFR § 806.30(b)(2), the project sponsor shall report violations of any withdrawal limits and any conditions of this approval within five (5) days of such

violation or report loss of measuring or recording capabilities required under 18 CFR § 806.30(a)(1) within five (5) days after any such loss.

8. In accordance with 18 CFR § 806.6, if ownership of the project changes or if the project sponsor undergoes a name change, the project sponsor shall submit application for transfer or reissuance of this approval to the Commission within ninety (90) days of the change in ownership or project sponsor name change.

9. The project sponsor shall comply with the water conservation requirements specified in 18 CFR § 806.25.

10. This approval is conditioned on the project sponsor maintaining legal access to the withdrawal location for the duration of the approval.

11. The project sponsor shall register with the appropriate agency all surface water sources described herein, as may be required by regulations of the member jurisdiction.

12. If the project sponsor fails to comply with the provisions of the Susquehanna River Basin Compact or any rule, regulation, or order of the Commission, or any term or condition of this docket, the project sponsor is subject to enforcement actions pursuant to 18 CFR Part 808.

13. Commission approval shall not be construed to exempt the project sponsor from obtaining and maintaining 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 may modify, suspend, or revoke this approval if the project sponsor fails to obtain or maintain such permits and/or approvals.

14. The Commission may at any time reopen any project approval 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, pursuant to 18 CFR § 806.32.

15. 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.

16. This project is approved for inclusion in the Commission's Comprehensive Plan for the Water Resources of the Susquehanna River Basin.

17. The project sponsor is required to apply for and obtain approval prior to any increase in withdrawal or consumptive use that would exceed the amounts listed herein or to add a source used for consumptive use that is not listed in Section 5.

## Section 8. Special Conditions

18. Prior to operation of the withdrawal at the modified rate, the project sponsor shall submit a comprehensive metering plan to the Commission for review and approval by Commission staff that accounts for all withdrawals and consumptive use associated with this approval. Withdrawals shall not commence at the modified rate until Commission staff has approved the metering plan and notified the project sponsor of such approval.

19. Effective October 1, 2019, when flow at the spillway from the Elk Mountain portion of the Main Storage Pond to the Village of Four Seasons section of the pond is less than 87.3 gpm, Elk Mountain shall augment flow to an unnamed tributary to East Branch Tunkhannock by pumping a minimum of 87.3 gpm from the Moore Pond, sourced by Elk Mountain's surface water withdrawal from East Branch Tunkhannock Creek to an unnamed tributary to East Branch Tunkhannock Creek. Should the Moore Pond have inadequate storage to meet the 87.3 gpm passby flow requirement, the project sponsor will cease withdrawals from the Main Storage Pond until flow at the spillway reaches 87.3 gpm or until adequate water is available to maintain pumping from the Moore Pond to augment flow to an unnamed tributary to East Branch Tunkhannock by pumping a minimum of 87.3 gpm. The project sponsor may propose alternative methods for monitoring and adhering to passby flows to the Commission for staff review and, if appropriate, approval.

20. The project sponsor shall, on a daily basis, collect and record streamflow as measured at the on-site monitoring location specified in Section 4, and shall report the data to the Commission quarterly, and as otherwise required, in the form and manner as prescribed by Commission staff. Quarterly monitoring reports shall be submitted online and are due within thirty (30) days after the close of the preceding quarter. The project sponsor may propose alternative flow monitoring to the Commission for staff review and, if appropriate, approval.

21. The date of the last meter certification was June 21, 2017; therefore, the next meter certification is due no later than June 21, 2022. Certification of meter accuracy shall be provided to the Commission no less frequent than once every five (5) years from the date of the last certification.

22. Prior to supplying water for any use not authorized pursuant to Sections 2 or 5 of this approval, the project sponsor shall first submit a request for minor modification under 18 CFR § 806.18(c)(4) for such new use to the Executive Director. The project sponsor shall not supply water for such use unless and until such authorization is granted, and pursuant to any supplemental terms and conditions contained in such approval.

## Section 9. Term

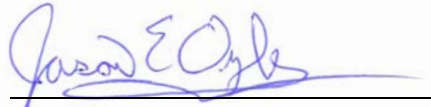
23. This modified approval shall be effective October 1, 2019, and shall remain effective until March 15, 2031, to align with the project's associated Commission Docket No. 20060303. As specified in 18 CFR § 806.31(e), if the project sponsor submits an application on or before September 15, 2030, the project sponsor may continue operation of this project pursuant to the

terms and conditions of this approval until such time as the Commission acts on such application, or until otherwise notified by the Executive Director.

24. Commission Docket Nos. 20031003 and 20031003-1 are hereby superseded.

**CERTIFICATION:** I, Jason E. Oyler, Secretary to the Susquehanna River Basin Commission, do hereby certify that the foregoing project docket was approved by the Susquehanna River Basin Commission on September 6, 2019.

Dated: September 9, 2019



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Jason E. Oyler, Esq.