



SUSQUEHANNA RIVER BASIN COMMISSION

4423 North Front Street • Harrisburg, Pennsylvania 17110-1788

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

www.srbc.net

Docket No. 20191210

Approval Date: December 5, 2019

NEW YORK STATE CANAL CORPORATION

Surface Water Withdrawal, Out-of-Basin Diversion, and Consumptive Use (Peak Day) of up to 4.300 mgd from Middle Branch Tioughnioga 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 the project described herein in accordance with the conditions set forth below.

This project involves the withdrawal, diversion, and consumptive use by out-of-basin diversion from Middle Branch Tioughnioga Creek, located in the Town of DeRuyter, Madison County, New York, in the Susquehanna River Basin to the DeRuyter Reservoir for temporary reservoir refill, located in the Towns of DeRuyter and Cazenovia, Madison County, and the Town of Fabius, Onondaga County, New York, in the Oswego River/Finger Lakes Basin.

The project sponsor has identified a public safety need to rehabilitate the DeRuyter Reservoir's dam, classified by the New York State Department of Environmental Conservation (NYSDEC) as a large Class C, high hazard dam. In order to maintain safe conditions while performing the dam rehabilitation, the project sponsor must temporarily draw down the reservoir's water surface elevation. Once the rehabilitation work is complete, the project sponsor plans to supplement the natural refilling of the reservoir by installing a temporary water diversion system at an existing diversion structure and reactivating an existing diversion channel, historically used to supply water to the DeRuyter Reservoir and the Erie Canal from the Middle Branch Tioughnioga Creek. The withdrawal, diversion, and consumptive use are only requested until the reservoir's natural water surface elevation has been restored; therefore, the project sponsor has requested a two (2)-year approval term for the temporary project.

Commission staff has coordinated with NYSDEC 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.

Project Information	
Project Sponsor:	New York State Canal Corporation
Approval Types:	Surface Water Withdrawal, Out-of-Basin Diversion, and Consumptive Use
Authorized Water Use Purpose:	Temporary Reservoir Refill
Municipality:	Towns of DeRuyter, Cazenovia, and Fabius
County:	Madison and Onondaga Counties
State:	New York

Section 3. Source Information

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

Source Information	
Approved Source:	Middle Branch Tioughnioga Creek
Subbasin:	Upper Susquehanna
Watershed Boundary Dataset (WBD):	0205010201 (East Branch Tioughnioga River)
Water Use Designation:	C (TS)
Withdrawal Location (degrees):	Lat: 42.792408 N Long: 75.871190 W
Drainage Area (square miles):	14.3
Aquatic Resource Class*:	2
Special Flow Protection Required:	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.

Approved Withdrawal Quantities and Limitations	
Peak Day Withdrawal Amount (mgd):	4.300 (Not to Exceed, When Available)
Maximum Instantaneous Withdrawal Rate (gpm):	Lesser of 3,000 or 10 percent of instantaneous instream flow (Not to Exceed)*
Flow Protection Type:	Seasonal passby expressed as monthly values
Method for Monitoring Flow Protection:	On-site flow monitoring consistent with Special Condition 14

Approved Withdrawal Quantities and Limitations (continued)	
Passby Schedule:	
<i>Month</i>	<i>On-Site Flow Protection Rate (cfs)**</i>
January	15
February	13
March	23
April	29
May	13
June	6.5
July	5.8
August	5.3
September	3.5
October	10
November	11
December	18
mgd – million gallons per day 1 cubic foot per second (cfs) = 448.8 gallons per minute (gpm)	
* See Special Condition 14 ** Flow Protection Threshold	

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

Section 5. Approved Out-of-Basin Diversion Quantities and Limitations

The out-of-basin diversion approved hereunder is subject to the quantitative limits and restrictions set forth in the table below.

Approved Out-of-Basin Diversion Quantities and Limitations	
Peak Day Diversion Amount (mgd):	4.300 (Not to Exceed)

The out-of-basin diversion is also subject to all other conditions set forth in this docket approval.

Section 6. 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.

Approved Consumptive Use Quantities and Limitations	
Source for Project Consumptive Use:	Middle Branch Tioughnioga Creek
Peak Day Consumptive Use Amount (mgd):	4.300 (Not to Exceed)
Authorized Project Consumptive Use:	Temporary reservoir refill
Consumptive Use Mitigation Type:	Discontinuance of the project's consumptive use as provided in Special Condition 19

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

Section 7. Standard Conditions

1. The project sponsor shall comply with all Commission regulations, 18 CFR Parts 801, 806, and 808.

2. The project sponsor shall keep daily records of the project's withdrawal, diversion, 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.

3. 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.

4. 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.

5. 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 all approvals to the Commission within ninety (90) days of the change in ownership or project sponsor name change.

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

7. 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. The project sponsor shall also satisfy annual usage, capacity, and conservation reporting requirements in the form and manner prescribed by NYSDEC's Division of Water.

8. 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.

9. 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 foregoing shall include, but not be limited to, any applicable permitting requirements of NYSDEC. All such permits and/or approvals shall be obtained prior to the withdrawal of water. The Commission may modify, suspend, or revoke this approval if the project sponsor fails to obtain or maintain such permits and/or approvals. Furthermore, no water withdrawn by this project may be used in natural gas well development using High Volume Hydraulic Fracturing in New York State.

10. 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. Without limiting the foregoing, and upon notice, the Commission may modify the flow protection standards set forth in Section 4 above in the event the Commission or the host member jurisdiction adopts or modifies flow protection standards, or the Commission otherwise determines that a modification is necessary and appropriate to avoid adverse impacts to the source identified in Section 3 above.

11. 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.

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

13. The project sponsor is required to apply for and obtain approval prior to any increase in withdrawal, diversion, 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 6.

Section 8. Special Conditions

14. Within sixty (60) days from the date of this approval, the project sponsor shall submit a comprehensive metering and monitoring plan (including methods for establishing and maintaining on-site instream flow monitoring) to the Commission for review and approval by Commission staff that accounts for all withdrawals and consumptive use associated with this approval. The plan shall also include a description of the methodology the project sponsor will use to monitor streamflow to ensure that the maximum instantaneous withdrawal rate never exceeds ten (10) percent of the instantaneous streamflow rate.

15. Within sixty (60) days from the date of this approval, the project sponsor shall submit a final intake design for review and, if appropriate, approval by Commission staff, and shall obtain necessary general or individual permits from the jurisdictional permitting agency prior to use of the intake. The project sponsor shall provide the Commission with a copy of the permit prior to operating the withdrawal. If subsequent design review by the permitting agency requires modification to the intake design, the project sponsor shall submit to the Commission a revised intake design for review and, if appropriate, approval by Commission staff prior to permit issuance by the permitting agency. Thereafter, 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).

16. Prior to any withdrawal, diversion, or consumptive use from the source listed in Sections 3, 5, and 6, the project sponsor shall notify the Commission, in writing, and certify the accuracy of the measuring devices to within five (5) percent of actual flow. In accordance with 18 CFR § 806.30, the project sponsor shall notify the Commission, in writing, and submit photographs of the measuring devices when it has been installed, and certify the accuracy of the measuring device to within five (5) percent of actual flow. Withdrawals, diversions, or consumptive use shall not commence until Commission staff has approved the implementation of the approved metering plan and notified the project sponsor of such approval.

17. The project sponsor shall cease all withdrawals from the approved source when streamflow, as measured at the on-site monitoring location specified in Section 4 and approved in accordance with Special Condition 14 above, is less than the applicable flow protection threshold specified in Section 4, and shall not reinstate withdrawals until the streamflow is equal to or exceeds such flow protection threshold.

18. 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.

19. The project's consumptive use is subject to mitigation requirements, as per 18 CFR § 806.22(b). To satisfy the Commission's current mitigation requirements for consumptive use, the project sponsor shall discontinue the project's consumptive use when streamflow is less than the applicable flow protection threshold specified in Section 4, and cease all withdrawals from the approved source as specified in Special Condition 17. Additionally, the project sponsor shall cease withdrawal upon notice from the Commission of a Commission-designated low flow period. Any modifications proposed to the consumptive use mitigation method shall be submitted in writing for review and, if appropriate, approved by Commission staff in accordance with 18 CFR § 806.22(b). Modifications shall not be made until the project sponsor receives written approval of the amended mitigation method.

Section 9. Term

20. This approval is effective until December 4, 2021. As specified in 18 CFR § 806.31(e), if the project sponsor submits an application on or before June 4, 2021, 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.

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 December 5, 2019.

Dated: December 6, 2019



Jason E. Oyler, Esq.