



# SUSQUEHANNA RIVER BASIN COMMISSION

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**Docket No. 20210307**

**Approval Date: March 12, 2021**

## **UPSTATE FARMS CHEESE, LLC**

**Groundwater Withdrawals (30-Day Averages) of 0.510 mgd from Well 1  
and 1.100 mgd from Well 4, and  
Total System Withdrawal Limit (30-Day Average) of 1.100 mgd**

### **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.

The project sponsor operates three wells (Wells 1, 3, and 4) to supply water for use in the manufacture of consumer cheese products, for potable use, and for fire suppression water to the facility. Based on information provided by the project sponsor, no other sources are operated by the project.

The Commission previously approved the 30-day average withdrawal of 1.100 million gallons per day (mgd) from Well 4 under Commission Docket No. 19950904. The project sponsor submitted a groundwater renewal application for Well 4 to the Commission requesting approval to continue to withdraw up to 1.100 mgd. The Well 1 application for a withdrawal up to 0.510 mgd was submitted in accordance with terms of the August 2017, transfer of ownership from Kraft Heinz Foods Company to Upstate Farms Cheese, LLC. This approval authorizes the requested withdrawal quantities for Wells 1 and 4, and reestablishes a total system limit for withdrawals from Wells 1, 3, and 4 to be consistent with the 15-year projected demand through March 2036.

Should demand exceed the total system limit established herein, the project sponsor may request a minor modification in accordance with 18 CFR § 806.18(c)(7) to increase the total system limit, as the total system limit established herein is based on the 15-year projected demand.

Commission staff has coordinated with the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH) 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	
<b>Project Sponsor:</b>	Upstate Farms Cheese, LLC
<b>Approval Type:</b>	Groundwater Withdrawal
<b>Past Docket No.:</b>	19950904
<b>Authorized Water Use Purpose:</b>	Industrial Food Processing and Incidental Uses Related to Food Processing
<b>Municipality:</b>	Town of Campbell
<b>County:</b>	Steuben County
<b>State:</b>	New York

## Section 3. Source Information

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

Source Information		
<b>Withdrawal Type:</b>	Groundwater	
<b>Approved Sources:</b>	Wells 1 and 4	
<b>Subbasin:</b>	Chemung	
<b>Watershed Boundary Dataset (WBD):</b>	0205010503 (Lower Cohocton River)	
<b>Withdrawal Location (degrees)*:</b>		
Well 1	Lat: --	Long: --
Well 4	Lat: --	Long: --
<b>Special Flow Protection Required:</b>	No	
* Specific location information concerning discrete water-related project features has been withheld for security reasons.		

## Section 4. Aquifer Testing

The project sponsor requested that the constant-rate aquifer testing required by 18 CFR § 806.12 for the groundwater withdrawal from Well 4 be waived. The project sponsor provided the required hydrogeologic setting information, groundwater availability estimate, results of a historical 72-hour, constant-rate aquifer test, and historical withdrawal and groundwater elevation data for Well 4. Commission staff determined that the withdrawal from Well 4 at the requested withdrawal rate should not cause permanent loss of aquifer storage, render competing supplies unreliable, or cause adverse impacts to the water resources of the basin. Pursuant to Commission Resolution Nos. 2013-11 and 2015-06, the Executive Director approved the waiver of the aquifer testing requirements of 18 CFR § 806.12 on February 10, 2021.

The constant-rate aquifer testing of Well 1 required by 18 CFR § 806.12 for groundwater withdrawals was completed with prior Commission approval. A 73-hour, constant-rate aquifer test of Well 1 was conducted on September 23 to 26, 2019, pumping at an average rate of 354 gallons per minute (gpm).

Commission staff determined that the withdrawal from Well 1 at the requested withdrawal rate should not cause permanent loss of aquifer storage, render competing supplies unreliable, or cause adverse impacts to the water resources of the basin, subject to the conditions set forth below.

The project sponsor submitted well construction details, results of historical aquifer testing, and operational data with a request for a wellfield determination for Wells 1 and 4. Commission staff confirmed that Wells 1 and 4 are proximal (approximately 180 feet apart), with similar construction in the same unconsolidated glacial outwash aquifer, and that they demonstrated similar aquifer response during aquifer testing and system operation. A wellfield determination was issued on February 22, 2021.

**Section 5. Approved Withdrawal Quantities and Limitations**

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

<b>Approved Withdrawal Quantities and Limitations</b>		
	<b>Well 1</b>	<b>Well 4</b>
<b>30-Day Average Withdrawal (mgd):</b>	0.510	1.100
<b>Maximum Instantaneous Withdrawal Rate (gpm) (Not to Exceed):</b>	354	1,160
<b>Peak Day Withdrawal (mgd):</b>	0.509	1.670
<b>Total System Withdrawal Limit – Wells 1, 3, and 4 (30-Day Average) (mgd):</b>	1.100	

The withdrawals are also subject to all other conditions set forth in this docket approval.

**Section 6. Existing Approved Withdrawals**

Quantities applicable to the existing approved withdrawals are listed in the table below.

<b>Existing Approved Groundwater Withdrawals</b>			
<b>Source</b>	<b>30-Day Average Withdrawal (mgd)</b>	<b>Commission Docket No.</b>	<b>Docket Expiration Date</b>
Well 3	0.299	20170608	June 30, 2032

## **Section 7. Grandfathering Determination – Withdrawals and Consumptive Use**

The project did not utilize surface water withdrawals prior to November 11, 1995. The project utilizes one groundwater source (Well 1) that was previously grandfathered; however, the conditional transfer of approvals effective on April 18, 2018, required that all sources operated by the project be approved by the Commission. With this approval, all groundwater withdrawals used by the project have Commission approval.

The project had a pre-Susquehanna River Basin Compact consumptive use quantity of 0.068 mgd; however, the grandfathered quantity was forfeited when the project was transferred to the current owner on April 18, 2018. The project currently operates under the Commission's consumptive use threshold.

## **Section 8. 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 adhere to the metering plan reviewed and approved by Commission staff. Any modifications proposed for the metering plan shall be submitted for review and, if appropriate, 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.

3. 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 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.

4. The project sponsor shall adhere to the groundwater elevation monitoring plan reviewed and approved by Commission staff for the sources listed in Sections 3 and 6. The project sponsor shall maintain and monitor the accuracy of the measuring devices in accordance with the manufacturer's specifications.

5. The project sponsor shall keep daily records of the project's withdrawals and groundwater elevations for the sources listed in Sections 3 and 6, 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, and any modifications proposed for the groundwater elevation monitoring plan, 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.

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 all approvals 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 locations for the duration of the approval.

11. The project sponsor shall register with the appropriate agency all groundwater 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.

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 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.

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 that would exceed the amounts listed herein.

18. The project sponsor is required to apply for and obtain approval prior to any increase in the total system withdrawal that would exceed the approved total system withdrawal limits listed herein.

19. If the Commission determines that the operation of the project's groundwater withdrawal adversely affects any existing groundwater or surface water withdrawal, the project sponsor shall be required to provide, at its expense, an alternate water supply or other mitigating measure.

## **Section 9. Special Conditions**

20. The project currently operates such that consumptive use has remained under the Commission's threshold that would trigger requirement for review and approval. The project shall prepare and submit application requesting approval if the project's consumptive use is expected to increase to or exceed 20,000 gallon per day (gpd) on a rolling 30-day consecutive average.

21. The date of the last meter certification for Wells 1 and 4 was June 22, 2020; therefore, the next meter certification is due no later than June 22, 2025. 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.

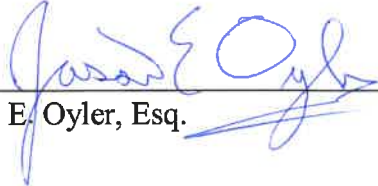
## **Section 10. Term**

22. This approval shall be effective April 1, 2021, and shall remain effective until March 31, 2036. As specified in 18 CFR § 806.31(e), if the project sponsor submits an application on or before September 30, 2035, 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.

23. Commission Docket No. 19950904 shall remain effective through March 31, 2021, whereupon it shall expire.

**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 March 12, 2021.

Dated: March 15, 2021

  
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Jason E. Oyler, Esq.