



SUSQUEHANNA RIVER
BASIN COMMISSION

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NY ■ PA ■ MD ■ USA

October 20, 2020

TO ALL CONCERNED:

At the September 18, 2020, Commission meeting, the draft minutes of the March 13, 2020, Commission meeting were approved as written. Please attach this notice to your copy of the March 13, 2020, minutes.

SUSQUEHANNA RIVER BASIN COMMISSION
4423 N. FRONT ST.
HARRISBURG, PA 17110

**MINUTES OF THE
SUSQUEHANNA RIVER BASIN COMMISSION
September 18, 2020
#2020-02**

The meeting was held via conference call from the Susquehanna River Basin Commission in Harrisburg, Pa. Commission Chair Atkinson called the meeting to order at 9:00 a.m.

ROLL CALL

Commissioners Present

Mr. James Tierney, Deputy Commissioner, New York State Dept. of Environmental Conservation (NYSDEC) via Conference Call

Ms. Aneca Atkinson, Deputy Secretary, Pennsylvania Department of Environmental Protection (PADEP) via Conference Call

Dr. Suzanne Dorsey, Assistant Secretary, Maryland Dept. of the Environment (MDE) via Conference Call

COL John T. Litz, District Engineer, U.S. Army Corps of Engineers, Baltimore District via conference call

Alternate Commissioners Present

Mr. Saeid Kasraei, MDE, Program Administrator, Water Supply Program

Ms. Amy Guise, Chief, Planning Division, U.S. Army Corps of Engineers, (USACE) Baltimore District

Staff Present

Mr. Andrew D. Dehoff, Executive Director

Mr. Andrew J. Gavin, Deputy Executive Director

Ms. Marcia Hutchinson, Director, Administration & Finance

Mr. Jason Oyler, General Counsel and Secretary

Mr. Gene Veno, Director, Governmental Affairs & Public Advocacy

Mr. John W. Balay, Manager, Planning & Operations

Mr. Todd D. Eaby, Manager, Project Review

Mr. Brydon Lidle, Manager, Information Technology

Also Present

Ms. Rhonda Manning, PADEP, River Basin Program Coordinator

Mr. Matthew Marko, NYSDEC, Director, Region 7

Ms. Summer Kunkel, PADEP, Acting Director of Water Resources Planning

1. Opening Remarks and Introductions

Commission Chair Atkinson opened the meeting by outlining the rules of conduct for the meeting. She noted that a public hearing was previously held on August 13, 2020 and the written comment period was open until August 24, 2020. The Commissioners introduced themselves. The Commissioners participated via conference call due to travel restrictions related to COVID-19. Executive Director Andrew Dehoff offered a report from staff sharing information about Commission operations and its response to the pandemic. In summary, operations continue remotely while still accommodating all opportunities for public interaction, and precautionary steps have been taken to implement cost-saving measures to insulate operations against possible revenue volatility.

2. Minutes of March 13, 2020, Commission Meeting

On a motion by Commissioner Dorsey, seconded by Commissioner Litz, the minutes of the regular business meeting of March 13, 2020, were unanimously approved as written.

3. Election of Officers

Executive Director Andrew Dehoff explained that, by tradition, the Chair and Vice Chair of the Commission are rotated among the member jurisdictions. In accordance with that rotation, the State of Maryland would become the Chair of the Commission, and the U.S. Government would become the Vice-Chair of the Commission for FY2021.

Commissioner Tierney moved and Commissioner Litz seconded a motion to elect the member from Maryland as the Chair of the Commission, and the member from the U.S. Government as the Vice-Chair of the Commission for the period of October 1, 2020, to June 30, 2021. The motion was unanimously approved.

4. Adoption of General Permit 01

On a motion made by Commissioner Dorsey and seconded by Commissioner Litz the adoption of Resolution 2020-04 (General Permit 01) was tabled by a vote of 4-0.

5. Rescission of Policies

Jason Oyler General Counsel and Secretary to the Commission presented amended Resolution 2020-05. The original resolution included Policy 95-01 and Policy 98-03 . The resolution has been amended to only rescind Policy 98-03. Policy 95-01 will not be rescinded at this time.

On a motion by Commissioner Tierney and seconded by Commissioner Litz, Resolution 2020-05 (Exhibit A) was adopted by unanimous vote.

6. Contracts and Grants

Ms. Hutchinson presented the following requests:

a. Development of Total Maximum Daily Loads (Pennsylvania Department of Environmental Protection)

Staff requested that the Commission ratify the signing of this grant agreement. Through this grant, staff will continue to assist the Pennsylvania Department of Environmental Protection in its Total Maximum Daily Load (TMDL) program component of its Chesapeake Bay Watershed program. Specifically, staff will continue closely coordinating with PADEP's Central Office and South-central Regional office in piloting the multi-year Alternative Restoration Plan in the extensively-impaired Chiques Creek watershed.

Staff will also continue to coordinate with core partners and PADEP to perform work, including aqueous chemistry, flow, channel geometry and habitat data collection, compilation and interpretation activities, with an intent to develop an Alternative Restoration Plan for Octoraro Creek in future years. Work in both of these areas includes providing on-going operation and maintenance of real-time continuous in-stream monitoring (CIM) stations. The cost of this program will total \$159,000 and will be covered by PADEP.

b. Chesapeake Bay Non-Tidal Network Monitoring (Pennsylvania Department of Environmental Protection)

Staff requested that the Commission ratify the signing of this grant agreement. Through this grant, staff will continue to assist the Pennsylvania Department of Environmental Protection with the Sediment and Nutrient Assessment (SNAP) component of its Chesapeake Bay Watershed program. Staff will continue to conduct monthly and periodic high flow stormwater sampling at Pennsylvania's six Susquehanna River Basin SNAP monitoring sites and to analyze and report flow-adjusted trends for sediment and nutrient loads within the Susquehanna River Basin. The cost of this program is \$166,200 with PADEP providing the total amount.

c. Water Quality Protection and Pollution Prevention (U.S. Environmental Protection Agency)

Staff requested that the Commission ratify the signing of this grant agreement. Through this grant, staff will continue to establish and maintain adequate measures for the prevention and control of surface water pollution and implement EPA approved Clean Water Act Section 106 program activities. Some of these activities include performance of subbasin surveys and large waters assessments, continued study of American eel restoration efforts, monitoring of nonpoint source BMPs, coordination of source water protection efforts, GIS and data management, and water quality coordination, public participation and outreach. The cost of this program is \$635,847. USEPA will contribute \$588,00 and the Commission will provide \$47,847.

On a motion by Commissioner Dorsey seconded by Commissioner Tierney, the ratification of these agreements was approved unanimously.

7. FY2021 Budget Adjustments

Director of Administration of Finance Marcia Hutchinson presented a resolution providing direction to the staff for adjusting the final FY2021 budget adopted by the

Commission in March 2020, in recognition of budget fluctuations and likely revenue uncertainty associated with the COVID-19 pandemic.

On a motion by Commissioner Tierney seconded by Commissioner Dorsey, Resolution 2020-06 (Exhibit B) was approved by unanimous vote.

8. Current Expense Budget for FY2022

Ms. Hutchinson presented a resolution adopting the expense budget for FY2022, which will cover the period July 1, 2021 through June 30, 2022.

A motion was made by Commissioner Tierney seconded by Commissioner Dorsey, that Resolution 2020-07 (Exhibit C) be adopted. The resolution was adopted by unanimous vote.

9. Member Allocation for FY 2022

Mrs. Hutchinson presented a resolution adopting the proposed member allocation for FY2022, which will cover the period July 1, 2021, to June 30, 2022.

A motion was made by Commissioner Litz and seconded by Commissioner Dorsey to adopt Resolution 2020-08 (Exhibit D). The resolution was unanimously adopted.

10. FY2019-2021 Water Resources Program

Deputy Executive Director Andrew Gavin presented the proposed updated FY2019-2021 Water Resources Program for adoption by the Commission, in accordance with the requirements of the Compact.

With a motion by Commissioner Litz seconded by Commissioner Dorsey, Resolution 2020-09 (Exhibit E) was adopted unanimously.

11. Comprehensive Plan Amendments

Mr. Gavin presented to the Commission for consideration amendments to its *Comprehensive Plan for the Water Resources of the Susquehanna River Basin*. The proposed amendments included the Water Resource Program (FY2019-2021), as well as all water resources projects approved by the Commission since the last amendments to the Comprehensive Plan in 2019.

With a motion by Commissioner Tierney, seconded by Commissioner Litz, Resolution 2020-10 (Exhibit F) was adopted with an unanimous vote.

12. Report on Delegated Settlements

Executive Director Andrew Dehoff reported on three delegated settlements that staff completed over the previous quarter.

A settlement with Cascades Tissue Group- Pennsylvania, Inc. (Cascades) – Ransom Township, Lackawanna County, PA:

- Cascades operates a paper manufacturing facility in Lackawanna County and is approved to withdraw and consumptively use water.
- During a routine inspection and records audit, Commission staff noted inconsistencies in the consumptive use and withdrawal data previously reported to the Commission.
- Notice of Violation was issued for failure to adhere to the approved consumptive use accounting methodology and failure to maintain a continuous and accurate record of daily water withdrawal volumes.
- Cascades has a compliance history with the Commission (late reporting/payments).
- The settlement amount is consistent with Commission policies and with past approved settlements to resolve similar violations
- Violations were administrative in nature.
- No indications of environmental harm were identified.
- The settlement is \$5,000.

A settlement with SWN Production Company, LLC (SWN) - Wyalusing Creek Withdrawal - Stevens Township, Bradford County, PA:

- SWN operates an approved surface water withdrawal on Wyalusing Creek in Bradford County.
- Upon review of quarterly monitoring data reported by SWN, staff noted SWN made withdrawals on two occasions when the withdrawal should have been on passby due to low streamflow conditions.
- Notice of Violation was issued for failure to cease withdrawals when streamflow was less than the required flow protection threshold outlined in the Docket.
- Withdrawals were made when streamflow was fluctuating above and below the applicable flow protection threshold.
- Withdrawals occurred when flow was above the flow protection threshold, however SWN failed to adhere to the 48 hour wait requirement.
- No indications of environmental harm were noted.
- The settlement is \$2,000.

A settlement with Tioga Downs Racetrack, LLC (Tioga Downs) - Town of Nichols, Tioga County, NY:

- Tioga Downs operates a racetrack and casino in Tioga County and is approved to withdraw and consumptively use water.
- Upon review of monitoring data reported by Tioga Downs, Commission staff determined Tioga Downs was not accurately reporting its consumptive use and groundwater elevation levels from the Racetrack Well.
- Notice of Violation was issued for failure to provide a continuous, accurate record of the withdrawal or consumptive use and failure to adhere to the groundwater elevation monitoring plan reviewed and approved by Commission staff
- Tioga Downs reported the same elevation level every day, demonstrating they failed to actually check the elevation level daily.

- Inaccurate consumptive use recording and reporting resulted in over-payment of the consumptive use mitigation fee.
- The Commission refunded the consumptive use mitigation fees in excess of the quantity of water consumed.
- The settlement is \$10,000.

13. Emergency Certificate Extensions

Manager of Project Review Todd Eaby presented the following requests for Emergency Certificate extensions. Staff recommended that these extensions be granted.

a. Dolph Mine Fire Emergency (PADEP)

The extension of the emergency certificate is through January 23, 2023 or until terminated by the Executive Director, whichever occurs sooner. Extinguishing the mine fire and the reclamation of the area will require several months and the emergency condition will persist past September 18, 2020 and necessitates an extension of the emergency approval beyond the authority delegated to the Executive Director.

With a motion from Commissioner Tierney, seconded by Commissioner Litz, Resolution 2020-11 (Exhibit G) extending the emergency certificate was approved with a majority vote with Pennsylvania abstaining.

b. Brymac, Inc. – Mountain View Country Club

Brymac, Inc., doing business as Mountain View Country Club, requested an extension of the emergency authorization to temporarily withdraw groundwater from Well 1 to irrigate the golf course beyond the expiration of September 18, 2020.

On a motion by Commissioner Dorsey and seconded by Commissioner Tierney, Resolution 2020-12 (Exhibit H) extending the emergency certificate until October 31, 2020 or until terminated by the Executive Director, was adopted unanimously.

14. Request for Waiver – Geneva Farm Golf Course, Inc.

Mr. Eaby presented a request from Geneva Farm Golf Course to waive regulations that require submittal of renewal applications six months prior to the expiration of an approval so that the approval may be extended until such time that the Commission renders a decision on the application. Staff recommended that the request for waiver be granted.

On a motion made by Commissioner Dorsey and seconded by Commissioner Tierney, the recommendation of staff regarding this request for waiver was accepted.

15. Docket Actions

Mr. Eaby presented a staff memorandum containing details and recommendations regarding the following list of project applications:

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| <ol style="list-style-type: none"> 1. Bloomfield Borough Water Authority (Well 1) Perry County, Pa. (Exhibit I1) 2. Byler Golf Management, Inc. (Iron Valley Golf Club) Lebanon County, Pa. (Exhibit I2) 3. Cabot Oil & Gas Corporation (Hatchery Wellfield) Wyoming County, Pa. (Exhibit I3) 4. Cabot Oil & Gas Corporation (Susquehanna River) Susquehanna County, Pa. (Exhibit I4) 5. Chesapeake Appalachia, L.L.C. (Susquehanna River) Bradford County, Pa. (Exhibit I5) 6. Chesapeake Appalachia L.L.C. (Susquehanna River) Wyoming County, Pa. (Exhibit I6) 7. Chesapeake Appalachia L.L.C. (Wyalusing Creek) Bradford County, Pa. (Exhibit I7) 8. Green Leaf Water LLC (Lycoming Creek) Lycoming County, Pa. (Exhibit I8) 9. Lake Meade Municipal Authority (Well 3) Adams County, Pa. (Exhibit I9) 10. Meadia Heights Golf Club LLC, Lancaster County, Pa. (Exhibit I10) | <ol style="list-style-type: none"> 11. Montgomery Water Authority (Well 1) Lycoming County, Pa. (Exhibit I11) 12. Pixelle Specialty Solutions LLC, York County, Pa. (Exhibit I12) 13. Repsol Oil & Gas USA, LLC (Susquehanna River) Clinton County, Pa. (Exhibit I13) 14. S.T.L. Resources LLC (West Branch Susquehanna River) Clinton County, Pa. (Exhibit I14) 15. Shippensburg Borough Authority (Well 1) Cumberland County, Pa. (Exhibit I15) 16. Togg Mountain, LLC (West Branch Tioughnioga Creek) Onondaga County, N.Y. 17. The Municipal Authority of the Borough of Berlin (Well 6) Somerset County, Pa. (Exhibit I16) 18. Iron Master Country Club (Well 14) Bedford County, Pa. (Exhibit I17) 19. Sinking Valley Country Club (14th Fairway Well) Blair County, Pa. (Exhibit I18) |
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Highlight = Staff recommended tabling.

Commissioner Dorsey moved and Commissioner Tierney seconded that the Commission adopt the recommendations of staff for the 19 project applications, including three Commission initiated modifications and one application that was tabled. The motion was approved by a unanimous vote.

ADJOURNMENT

Commissioner Dorsey made a motion, seconded by Commissioner Tierney to adjourn the meeting. Commission Chair Atkinson adjourned the meeting at 9:45 a.m.

December 11, 2020
Date Adopted

Jason E. Oyler
Secretary to the Commission