



SUSQUEHANNA RIVER
BASIN COMMISSION

4423 N. Front Street | Harrisburg, PA 17110-1788 | 717.238.0423 | srbc.net | [@SRBCnews](https://twitter.com/SRBCnews)

NY ■ PA ■ MD ■ USA

May 3, 2019

The Honorable Eugene A. DePasquale
Auditor General
Department of the Auditor General
Finance Building
613 North Street, Room 229
Harrisburg, PA 17120-0018

Dear Mr. Auditor General:

This letter will constitute a response to the report issued on November 7, 2018 by the Pennsylvania Auditor General's office following the Performance Audit of the Susquehanna River Basin Commission ("SRBC") conducted for the SRBC Fiscal Year ending June 30, 2017. It is respectfully offered for your consideration by the Commissioners of the SRBC, and provides direction to SRBC staff leadership. As Commissioners responsible for the oversight of the SRBC, we want to assure you that we are committed to providing direct oversight of the implementation of the recommendations contained in the report. We believe the report can serve as a tool to ensure not only management follow-up on the specific items included, but as a regular reference relative to the obligations and responsibilities of an agency charged with serving the public.

First, we appreciate the diligent effort by your office in conducting the audit. We understand from those interviewed that the staff was open with respect to SRBC activities and allowed ample opportunity for the SRBC staff to provide information and answer questions. We believe that approach makes for a thorough and constructive audit and report. Recommendations related to increased transparency; modernizing the Memorandum of Understanding (MOU) between the Pennsylvania Department of Environmental Protection (DEP) and the SRBC and clarification of roles and responsibilities of the two agencies in regulating certain entities; and pursuing full member contributions are well received.

We as Commissioners also want to state unequivocally that any organization which relies upon or is entrusted with managing public funds must be vigilant in its handling and expenditures of those funds. Taken in the context of the operating budget of the Commission, the dollar amounts discussed in the report for activities such as agency-sponsored events and employee incentives which raised some concerns may not be large. However, the Commissioners agree that an expenditure, in any amount, which gives the impression or causes a public perception that an agency is spending money inappropriately, is a legitimate concern. The mission of the SRBC, supported by the member jurisdictions, is critical in protecting the resources of the Basin and the SRBC strives to fulfill its mission established by the Compact in a professional and fiscally responsible manner. It is for this reason, to safeguard the mission and work of the Commission, that it becomes even more critical that any perceived missteps are quickly and publicly addressed.

*A water resource agency serving
the Susquehanna River Watershed*

The Honorable Eugene A. DePasquale

Actions to address recommendations of the Audit report have already begun. Attached to this letter you will find a document which responds to each of the findings and recommendations in the report. We note that actions related to many of the items detailed in the report which concerned the propriety of expenditures of funds for staff recognition, events, or quarterly meetings, have been fully implemented.

With respect to the finding regarding the need to update the MOU between SRBC and Pennsylvania DEP, the Commissioners recognize that this is primarily an issue between DEP and SRBC. The commissioners want to be appropriately respectful of and deferential to that relationship. It is the understanding of the commissioners from prior quarterly meetings and recent discussions that the process to revise the dated MOU has begun, and a summary of actions related to developing the new agreement resulting from discussions between the two agencies is included in the attachment. The commissioners have also directed that a status on that effort be provided at each quarterly Commission meeting.

Finally, while all must recognize that the decision by each jurisdiction to pay the requested share to the SRBC is decided through its budget and appropriations processes, the Commissioners are committed to underscoring the importance of this issue to our respective decision makers.

Again, the Commissioners wish to thank you for your efforts in this process, and reinforce with you our ongoing commitment to transparent, responsive and responsible governance of this important interstate water resource management agency.

Sincerely,



Paul D'Amato, Chair
New York State



Secretary Patrick McDonnell, Vice Chair
Commonwealth of Pennsylvania



Secretary Ben Grumbles
State of Maryland



COL John Litz
U.S. Army Corps of Engineers

Enclosure

The Honorable Eugene A. DePasquale

This letter was distributed to the following individuals:

The Honorable Tom Wolf
Governor

The Honorable Randy Albright
Secretary of the Budget
Office of the Budget

The Honorable Joseph M. Torsella
State Treasurer
Pennsylvania Treasury Department

The Honorable Josh Shapiro
Attorney General
Office of the Attorney General

The Honorable Sharon P. Minnich
Secretary of Administration
Office of Administration

The Honorable Daryl Metcalfe
Majority Chair
House Environmental Resources and Energy
Committee

The Honorable Greg Vitali
Democratic Chair
House Environmental Resources and
Energy Committee

The Honorable Gene Yaw
Majority Chair
Senate Environmental Resources and
Energy Committee

The Honorable John T. Yudichak
Democratic Chair
Senate Environmental Resources and
Energy Committee

Ms. Mary Spila
Collections/Cataloging
State Library of Pennsylvania

ATTACHMENT

Act 44 Auditee Reporting Form

As referenced in the letter enclosing this attachment, and in accordance with 4 Pa. Code, Chapter 501 and the Department of the Auditor General Act 44 Auditee Reporting Form, the Susquehanna River Basin Commission and its Commissioners have reviewed the findings and recommendations of the November 7, 2018 audit report. The Commission provides this response detailing its plan for adopting the audit recommendations. The Commission has noted its concurrence with the intent behind the individual findings and recommendations, along with actions implemented to date, planned actions and pertinent timetables of implementation.

Finding 1—Determination of the SRBC’s costs of salaries, benefits, other compensation; expense reimbursements to the SRBC’s officers and employees; and other fixed and variable SRBC costs; including certain questionable expenses.

Recommendation 1: Ensure annual audited financial statements are posted to the SRBC website to allow for transparency of SRBC operations, revenue, and expenses.

This recommendation has been fully adopted. The Susquehanna River Basin Commission’s audited financial statements for the Years Ending June 30, 2014, 2015, 2016, 2017, and 2018 were placed on the Commission’s website on December 6, 2018.

Recommendation 2: Ensure that itemized receipts are submitted and reviewed for all transactions prior to being processed for payment.

This recommendation has been fully adopted. While the requirement to present itemized receipts may not have been entirely fulfilled during the time period of the audit, it is now being fully enforced. On October 29, 2018, the Commission’s Director of Administration and Finance sent written direction to all Commission personnel to reinforce the requirements of the Commission’s existing policy and to ensure that compliance is obtained from this date forward. The Commission has documented the chain of review of all submitted receipts for travel and other expenses in Section 3-3 of its Administrative Manual. All receipts are reviewed by the appropriate supervisor for review and approval and then sent to the Director of Administration and Finance for final review and approval for reimbursement. Reimbursement requests without proper documentation will be returned. Documentation, such as receipts, etc., will be maintained by the Commission for the period of time required by its records retention schedule as it pertains to such information.

Recommendation 3: Discontinue the practice of paying for alcoholic beverages at Commission meetings.

This recommendation has been fully adopted. The Commission discontinued the practice of paying for alcoholic beverages at Commission meetings immediately upon receipt of the audit report.

Recommendation 4: Re-evaluate all costs, including but not limited to, employee awards, events, donations, catered meals, etc., ensuring not only that the costs are necessary, but also that they are reasonable and not extravagant.

This recommendation has been fully adopted. The Commission completed a re-evaluation of all costs and shared findings with its Commissioners on March 14, 2019. As a part of that process, the Commission examined the practices of its member jurisdictions, the necessity and reasonableness of all costs, and the benefits of certain costs to both the institution and the morale of Commission employees. Any changes not already implemented will become effective for the 2020 fiscal year beginning July 1, 2019.

In terms of the specific findings of the audit report, the Commission offers the following responses:

Salaries, benefits and other compensation provided to the officers and employees of the SRBC

The report noted that the Commission provides several types of reward programs that are designed to recognize excellent performance of its staff. Staff compared the Commission's programs to those provided by its member jurisdictions, and found the following:

- The member jurisdictions provide similar awards to the Annual Staff Excellence, Quarterly Spotlight and Teamwork awards. Some awards are monetary, while some provide for certificates, pins, trophies, supplies and apparel. The assessment is that the awards are reasonable, and are justified by their tie to performance and their positive impact on employee morale. The Special Award of Merit, which has been given to temporary employees and interns, will be discontinued.
- Spot Award Program – Member states do not provide for a program similar to this. However, the federal government provides spot bonuses of as much as \$250. The Commission will continue the Spot Award Program with the following changes:
 - Fully document the program in the Commission's Administrative Manual
 - Only purchase gift cards as needed and as outlined in the Administrative Manual

Catering for SRBC Meetings

For expenses associated with other Commission-related meetings, including technical advisory committee meetings and public workshops, in January 2019, staff implemented measures to minimize the cost of catered lunches, including but not limited to:

- Limiting per person costs for meals to the per diem rates as established by the federal General Services Administration for the location of the meeting.
- Where feasible, scheduling meetings outside lunch times to avoid the need for a catered lunch.
- Providing meals for meetings or training sessions only when such events are at least six (6) hours in length, or for meetings which involve a "working lunch".
- Providing for an itemized receipting process for those attendees who, in accordance with their employer's rules related to meal reimbursements, need to pay fair market value for lunches.

- Considering assessment of a registration fee for external attendees who attend a training session or workshop provided by the Commission.

Commission Meeting Expenses

The following practices were implemented for the December 2018 quarterly Commission meeting and will be continued in perpetuity for all quarterly business meetings:

- All Commission meeting expenses will be documented with itemized receipts.
- Meal costs will be limited to federal per diem rates as established by the General Services Administration for the location of the meeting.
- The Commission will not pay for alcohol.
- The Commission will pay for dinner for Commission staff only; commissioners and other representatives or guests of the member jurisdictions will pay for their dinners separately or through reimbursement to the Commission, which will be documented and an itemized receipt issued.
- Lunch expenses will follow the catering guidelines established as proposed above.
- Providing for an itemized receipting process for those attendees who, in accordance with their employer's rules related to meal reimbursements, need to pay fair market value for lunches.

Staff Events/Benefits

The Commission implemented a preliminary list of changes effective January 1, 2019:

- The Commission discontinued its public transportation reimbursement benefit.
- The Commission discontinued congratulatory gifts.
- The Commission discontinued bereavement gifts and donations.
- The Commission discontinued the use of Commission funds for Administrative Professional's Day.

Following discussion with and upon recommendation of the Commissioners, decisions on the remaining events and benefits were made on March 14, 2019. The Commission will implement the following changes to the other events and benefits noted in the report, as follows:

- Service awards – The current program will be continued.
- Wellness program – The current program will be discontinued and a new program tied to wellness offered by the Commission's health insurance provider will be developed. Staff anticipates that the new program will have minimal to no cost.
- Training and tuition reimbursement – The current training and tuition reimbursement program will be continued. The grade required for reimbursement for graduate courses to qualify for tuition reimbursement will be raised from a "C" to a "B".
- Moving expenses – The Commission will continue to reimburse for moving expenses, which are typically only incurred when they are negotiated as part of hiring a new employee, or moving an employee for the benefit of the Commission.
- Certification bonus – Certification bonuses are awarded very infrequently, as most staff already hold certifications when hired. This benefit will be continued.

- Annual staff picnic – The Commission will only cover the cost of the venue, which is estimated at \$100 annually. Food and drinks will be paid for or provided by employees.
- Annual staff holiday party – Future staff holiday parties will be held onsite at the Commission’s headquarters and will be potluck, or held at a catered venue and paid for by employees.
- Parting gifts for commissioners – Gifts for commissioners will no longer be purchased using Commission funds.

In addition, for its next and all future annual expense budgets, Commission management will list the proposed employee awards program expenditures as an independent line item to allow better examination and oversight of those expenses by the Commissioners and the public prior to adoption of the expense budgets. The budget for employee rewards and recognition programs will be limited to no more than 0.5% of total budgeted salaries in a fiscal year.

Finding 2—A much needed overhaul of the almost 20-year-old Memorandum of Understanding and additional written operational guidance between the SRBC and the DEP would assist in the cooperative functioning between these entities.

Recommendation 1: Work with the DEP to update the outdated MOU by revamping it into an “intergovernmental agreement,” as provided for in the DGS’ Procurement Handbook, to not only modernize the MOU but also more clearly define and memorialize the current practices in place regarding work being performed for and in conjunction with the DEP.

The Commission is working to adopt this recommendation. Coordination with DEP has begun for development of a new Administrative Agreement. In addition to general procedures for coordination, the administrative agreement will include an attachment to define each agency’s role and the coordination that needs to occur for each specific program area.

Collaboration on development of the agreement has begun and will continue in earnest through the first half of 2019, with the goal of presenting a final or near-final draft to SRBC’s Commissioners at their business meeting scheduled in September 2019. Following feedback from the Commissioners, SRBC will work with DEP to finalize the agreement and then present it to the SRBC Commissioners and DEP administration for final adoption and implementation.

Recommendation 2: Organize all of the SRBC’s criteria including Resolutions, Policies, Guidelines, etc. into one comprehensive manual.

This recommendation has been fully adopted. On March 13, 2019, the Commission posted on its website a Public Reference Manual containing all relevant Resolutions, Policies and guidance documents, along with descriptors of each document and information on where each applies. This webpage is a comprehensive electronic library to serve as a one-stop clearinghouse for all of these items. This webpage is accessed from www.srbc.net, selecting the “Our Work” menu, and then selecting “Public Reference Manual”.

Recommendation 3: Create a detailed outline to be prominently posted on the SRBC's website of the responsibilities and procedures being performed by both the SRBC and the DEP and regularly update the outline as these responsibilities and procedures change.

The Commission is working to adopt this recommendation. In conjunction with DEP, the Commission is developing a “Regulatory Crosswalk for SRBC and DEP Regulations” and a “SRBC/DEP Coordination Touchpoint Standard Operating Procedure.” Also, in conjunction with finalization and adoption of the administrative agreement with DEP, the Commission will post on its website an outline by authority and docket type depicting these responsibilities and procedures.

Recommendation 4: Improve media and communications with organizations to explain the different requirements of each agency and the inter-relationships and utilization of resources between the SRBC and the DEP, including periodically holding geographically dispersed information sessions.

The Commission is working to adopt this recommendation. The Commission accepts the responsibility to disseminate explanatory information about its regulatory program to the public. The Commission will continue its popular Public Water Supply Assistance Program. In the past this program has been held in Harrisburg and Williamsport, and the Commission will plan at least two workshops in 2019.

The Commission also included an item about this program and the information compiled for the previous two recommendations in its quarterly newsletter published on April 4, 2019, and will continue to regularly use the newsletter as a vehicle for delivering education on Commission policies, practices, activities, etc.

The Commission will conduct joint outreach and training programs with DEP during 2019 and 2020 to educate the regulated community on the authorities of both SRBC and DEP, as well as the requirements and coordination of both agencies. The Commission will also actively explore establishing a presence at the outreach and training sessions held by other organizations throughout the state to explain the Commission's mission and how its requirements differ from the DEP's, as it has in the past for annual meeting venues for the Pennsylvania State Association of Township Supervisors (PSATS), the Pennsylvania Municipal Authorities Association (PMAA), and the Pennsylvania Rural Water Association (PRWA). In addition, the Commission will conduct in-person meetings with various stakeholder groups (such as PSATS, PMAA, PRWA and others) to obtain feedback regarding regulatory programs and improvements to clarity and implementation thereof.

The Commission will also continue to devote substantial time and resources to engage in pre-application meetings with project sponsors to answer questions, including joint pre-application meetings with DEP.

The Commission believes that some of the actions taken in response to Recommendation 3 will also further this goal.

Recommendation 5: Ensure that the SRBC defers to the DEP in all areas where the DEP performs the same functions.

The Commission is working to adopt this recommendation. The Commission concurs that SRBC and DEP should ensure that the SRBC appropriately defers to the DEP when the DEP performs the same functions. The Commission believes the actions undertaken as outlined in the responses to Recommendations 1, 2, 3 and 4 will help achieve this goal, and that the revised Administrative Agreement will specify how the two agencies will coordinate and cooperate to best achieve deference to DEP as envisioned by the Compact.

Finding 3—Signatory parties, including Pennsylvania, are not making agreed upon contributions to the Susquehanna River Basin Commission, with the federal government making no annual payments since 2009.

Recommendation 1: Work with the signatory parties to ensure that they include in their respective budget requests the full contribution amount as determined by the agreed upon equitable apportionment percentages.

The Commission is working to adopt this recommendation. The Commission concurs that the agency has a responsibility to ensure equitable contributions from the signatory parties are included in their respective budget requests. With adoption of the preliminary Fiscal Year 2021 budget in June, 2019 and continuing annually into the future, the Commission will work with each member jurisdiction to provide supporting information and clear justification for the importance of each signatory member to request the full agreed upon contribution in its annual budget.

Recommendation 2: Emphasize to the signatory parties the need for each to contribute its equitable portion of the funds necessary for the SRBC's expense budget.

The Commission is working to adopt this recommendation. With adoption of the preliminary Fiscal Year 2021 budget in June, 2019 and continuing annually into the future, the Commission will work with each member jurisdiction to provide supporting information and clear justification to emphasize the need for each signatory member to contribute its equitable portion of the funds necessary for the SRBC's expense budget. As part of the effort, the Commission will strive to recognize the commitments made by the member state jurisdictions and the United States Government to fund part of the Commission's mission through a variety of grants and partnerships that supplement annual appropriations. In the fiscal year subject to this audit, for example, the Commission received \$457,601 from the U.S. Environmental Protection Agency and entered into an agreement with the Baltimore District, U.S. Army Corps of Engineers, to conduct a partnered project under the Planning Assistance for States program that dedicated federal funding to a project beneficial to the water resources of the Susquehanna River Basin.

Recommendation 3: Consider developing a new agreement among the signatory parties that will ensure full payment of each party's contribution amount in order to address the issue of signatory parties not making their annual required payments to the SRBC.

The Commission is considering this recommendation. Commission staff initiated on March 14, 2019, a discussion of alternatives to the present agreement between the signatory parties regarding annual member contributions. Development of a new agreement would require unanimous agreement by all members and have implications for the respective budgets of each. As budget requests for the 2021 fiscal year are already underway, it is unlikely any new agreement could apply prior to the Commission's 2022 fiscal year. The Commission believes that the actions to be taken to address Recommendations 1 and 2 will be beneficial when considering this recommendation

Recommendation 4: Evaluate the current fee schedule to determine if the amounts assessed are required to cover the cost of necessary operations and if any changes can be made to fees to assist in alleviating the negative impact of fees on organizations.

The Commission is working to adopt this recommendation. The Commission has a long history of periodically evaluating its fee schedule, and has conducted annual evaluations and updates since 2006. The Commission is currently conducting another evaluation of each of the three categories of fees contained in its fee schedule. The results of this evaluation follow and will inform the proposed fee schedule for 2019-2020 slated for adoption in September. Generally, results of the evaluation thus far show that fees assessed are required to cover the costs of necessary operations and in some cases fall short. However, should contributions from member jurisdictions increase, deferment of needed increases, and possibly fee reductions, would be considered.

1. *Application Fees:* Application fees cover costs to review requests for surface, groundwater and consumptive use withdrawals, and other related applications such as aquifer test plans and waivers, transfers of approvals, and modifications to existing approvals. Recent reviews show that fees assessed are not adequately covering the cost of necessary operations. For fiscal year 2017, costs generated by the review of applications exceeded amounts collected from fees by \$306,109. For fiscal year 2018, costs generated by the review of applications exceeded fees by \$737,226. In response, the Commission applied a 2% cost of living increase to application fees for our fiscal year 2019 fee schedule, and will need to consider applying a cost of living increase to our next fee schedule. The cost of living increases are based on the change to the Consumer Price Index for our region for the most recent twelve month period.

2. *Annual Compliance and Monitoring Fee (ACMF):* This fee covers costs for the Commission's compliance program and its Remote Water Quality Monitoring Network (RWQMN), which is instrumental in monitoring water quality. For fiscal year 2017, the revenue generated by the ACMF exceeded costs by \$258,199. For fiscal year 2018, revenue exceeded costs by \$373,739. Therefore in 2018, based on two consecutive years of surplus revenues, the Commission reduced the ACMF for fiscal year 2019 by 10% for docketed projects and by 20% for Approvals by Rule, and increased the municipal discount on these fees from 44% to 50%. Projections for the remainder of fiscal year 2019 show a small deficit for the program and increased costs for maintaining the RWQMN equipment, so the Commission will need to consider applying a cost of living increase in an attempt to keep revenues aligned with costs.

3. *Consumptive Use Mitigation Fee:* This fee is one of several means project sponsors may choose to comply with the Commission's consumptive use mitigation requirement. This

voluntarily-elected fee is dedicated to a restricted fund that is designated for the financing of water supply related projects, including costs associated with the planning, engineering, design, and construction phases of new projects or the reformulation of existing projects, or any other project or study initiated by the Commission to address the cumulative impact of consumptive water use or otherwise to support low flow management in the Susquehanna River Basin. The cost of projects covered by this fee can vary widely from year to year. Historical Commission consumptive use projects range from a high of \$51 million for the Cowanesque Water Supply Storage Project to the more recent Billmeyer Quarry Water Storage project, which will cost an estimated \$3.2 million over the life of the project. Because costs for projects can vary widely and can include expenses spanning thirty years or more, revenue generated by this fee is used to build the balance in the Commission's Water Management Fund, which helps to ensure that sufficient funds will be available to finance current and future projects. Contributions to the Water Management Fund from consumptive use fees were \$1,562,780 for fiscal year 2017 and \$1,841,468 for fiscal year 2018. However, the cost of future projects is unknown and in an effort to ensure the fee is sufficient for construction costs, it is indexed to the U. S. Army Corps of Engineers Civil Works Construction Cost Index System. That index shows an increase for the most recent twelve month period, so the Commission will need to consider applying an increase to the consumptive use mitigation fee.