

DRAFT General Permit GP-02

GROUNDWATER WITHDRAWALS FOR EMERGENCY USES OR MAINTENANCE ACTIVITIES

1. **GENERAL DESCRIPTION AND AUTHORITY** - The Susquehanna River Basin Commission (Commission) hereby approves by General Permit, subject to the terms and criteria set forth below, 1) the withdrawal of groundwater from wells for emergency uses or 2) maintenance activities. This approval is pursuant to Article 3.10 of the Susquehanna River Basin Compact (Compact) and the rules and regulations promulgated thereunder at 18 C.F.R. §§ 806.4(a)(9) and 806.17. The General Permit is subject to the terms and conditions set forth below.

2 **DENIAL OF APPROVAL** – The Commission or Executive Director shall have the discretion, on a case-by-case basis, to deny, revoke or suspend the approval to use this General Permit for any project determined to not meet or no longer meet the criteria for coverage under the General Permit or to have violated the terms and conditions of this General Permit, provided false or incomplete information on the Notice of Intent (NOI) seeking coverage under the General Permit or for any reason enumerated in 18 C.F.R. § 806.17(d).

3. **DEFINITIONS** – The following terms as used in this General Permit shall have the following meanings:

Back-up well. An alternate groundwater supply source for an existing Commission-approved or grandfathered project that provides source redundancy for use when other system sources are unavailable. A back-up well does not provide excess capacity to meet future water supply demands. A back-up well is used to maintain or supplement supply when emergency uses or maintenance activities interrupt use of a primary or routine source. Back-up well includes jurisdictional members' public water supply nomenclature for these sources, including reserve well, auxiliary well, and back-up supply.

Commission. The Susquehanna River Basin Commission, as established in Article 2 of the Compact, including its commissioners, officers, employees, or duly appointed agents or representatives.

Consumptive use. The loss of water transferred through a manmade conveyance system or any integral part thereof (including such water that is purveyed through a public water supply or wastewater system), due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, injection of water or wastewater into a subsurface formation from which it would not reasonably be available for future use in the basin, diversion from the basin, or any other process by which the water is not returned to the waters of the basin undiminished in quantity.

Contingency plan. A plan that establishes procedures that are to be followed for operating a back-up well during an emergency use or for maintenance activities

Emergency groundwater withdrawal. A withdrawal from groundwater that mitigates and maintains a project's operations in the event of an emergency, requiring immediate action to protect the public health, safety and welfare or to avoid substantial and irreparable injury to any person, property, or water resources. Under 18 C.F.R. § 806.34(a), emergency actions are those deemed necessary to sustain human life, health and safety, or that of livestock or food, fiber or forage crops, the maintenance of electric system reliability to serve such needs, to avoid significant disruption of employment, or any other such priorities that the Commission may establish utilizing its authority under Section 11.4 of the Compact related to drought emergencies.

Groundwater. Water beneath the surface of the ground within a zone of saturation, whether or not flowing through known and definite channels or percolating through underground geologic formations, and regardless of whether the result of natural or artificial recharge. The term includes water contained in quarries, pits and underground mines having no significant surface water inflow, aquifers, underground water courses and other bodies of water below the surface of the earth. The term also includes a spring in which the water level is sufficiently lowered by pumping or other means of drainage to eliminate the surface flow. All other springs are considered to be surface water.

Maintenance activities. Non-emergency actions to repair or maintain the physical water system and related equipment in good working order and routine sampling of the back-up well to maintain permits with other agencies.

Member jurisdiction. The signatory parties as defined in the compact, comprised of the States of Maryland and New York, the Commonwealth of Pennsylvania, and the United States of America.

Project sponsor. Any person who owns, operates or proposes to undertake a project. The singular shall include the plural.

Small capacity well. A groundwater source with a withdrawal of 20,000 gallons or less per day over a consecutive 30-day average.

Withdrawal. A taking or removal of water from any source within the basin.

4. **SCOPE** - The following activities are eligible for coverage under this General Permit
 - a. Emergency groundwater withdrawal from an unapproved well at an SRBC-approved project, provided the approved system cap, if any, is not exceeded.
 - b. Emergency groundwater withdrawal from an unapproved small capacity well.
 - c. Emergency increase in groundwater withdrawal from an approved back-up, reserve, or auxiliary well, consistent with its state Safe Drinking Water permit if applicable.

- d. Emergency or maintenance activity groundwater withdrawal from a well to be used as a source of water for a regulated consumptive use.
- e. Emergency groundwater withdrawal from an unapproved well to extinguish a mine fire.
- f. A non-routine groundwater withdrawal, generally from a back-up, reserve, or auxiliary well, used to offset capacity lost to maintain water supply while performing maintenance activities on an existing primary, Commission-approved source, project, or related equipment.

5. **WHERE GENERAL PERMIT DOES NOT APPLY** – This General Permit does not apply and is not valid for the following circumstances, and an individual permit would be required:

- a. Withdrawals from wells for a routine use at a permanent facility unrelated to maintenance activities or emergency withdrawals.
- b. Withdrawals from wells for use in unconventional hydrocarbon development.
- c. Withdrawals from SRBC-approved wells having protective conditions, including but not limited to a passby, conservation release, drawdown limit, seasonal limitations, or requiring monitoring of wetlands or private supply wells.
- d. Withdrawals from wells that increase the system capacity above a Commission-established Total System Limit.
- e. Except for small capacity wells, withdrawals from wells as follows:
 - 1. Any withdrawal within 500 feet of other groundwater users
 - 2. 0.020 to 0.100 mgd – within 200 feet of exceptional quality waters
 - 3. Greater than 0.100 mgd – within 500 feet of exceptional quality waters.
- f. Withdrawals from a spring.
- g. Withdrawals from surface water sources.
- h. Projects without Commission approved consumptive use that will exceed 20,000 gpd (consecutive 30-day average) of consumptive use.

6. **EFFECTIVE TIME PERIOD** – This General Permit shall expire on June 30, 2038.

7. **GENERAL CONDITIONS** – The following general conditions apply to all activities approved by this General Permit:

- a. With the exception of emergency activities associated with a mine fire, a project for emergency use or maintenance activities covered under this General Permit shall not exceed 60 days, except as otherwise noted in General Conditions r through u.
- b. This General Permit 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 General Permit if the project sponsor fails to obtain or maintain such permits and/or approvals.
- c. If the project sponsor fails to comply with the provisions of the Compact or any rule, regulation, or order of the Commission, or any term or condition of this General Permit, the project sponsor is subject to enforcement actions pursuant to 18 C.F.R. Part 808.
- d. This General Permit 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 General Permit shall be subject thereto.
- e. 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 C.F.R. § 808.12.
- f. The project sponsor shall adhere to notification procedures submitted with the NOI and Contingency Plan, and approved by the Commission.
- g. The Commission may at any time reopen any General Permit 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 C.F.R. § 806.32.
- h. The project sponsor shall adhere to the metering plan submitted with the NOI and must conform to 18 C.F.R. § 806.30.
- i. In accordance with 18 C.F.R. § 806.30(b)(2), the project sponsor shall report violations of any withdrawal limits and any conditions of this General Permit within five (5) days of such violation or report loss of measuring or recording capabilities required under 18 C.F.R. § 806.30(a)(1) within five (5) days after any such loss.
- j. In accordance with requirements under 18 C.F.R. § 806.30(a)(1), the project sponsor shall report loss of measuring or recording capabilities within five (5) days after any such loss.

- k. In accordance with 18 C.F.R § 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 the approval of coverage for this General Permit to the Commission within ninety (90) days of the change in ownership or project sponsor name change.
- l. The project sponsor shall keep daily records of the project's withdrawal and shall report the data in a form and manner determined by the Commission. Any alternative measuring, monitoring, or accounting procedure shall be submitted for review and approval by Commission staff in accordance with 18 C.F.R. § 806.30. Modifications shall not be made until the project sponsor receives written approval. All data collected and submitted as required under this approval shall be maintained by the project sponsor for the duration of the approval.
- m. The project sponsor shall maintain legal access to the withdrawal location for the duration of operation under this General Permit.
- n. The Executive Director can deny or revoke coverage under a general permit if the project or project sponsor does not or can no longer meet the criteria for coverage under a general permit; if the withdrawal individually or in combination with other similar Commission regulated activities, is causing or has the potential to cause adverse impacts to water resources or competing water users; the project does not comport with § 806.21(a) or (b); the project includes other diversions, withdrawals or consumptive uses that require an individual approval and the issuance of both an individual approval and a general permit for the project would constitute an undue administrative burden on the Commission; the Executive Director determines that a project cannot be effectively regulated under a general permit and is more effectively regulated under an individual approval.
- o. The project sponsor shall adhere to the Contingency Plan submitted with the NOI and approved by Commission staff. At a minimum, this plan shall contain a detailed narrative defining types of events when emergency or maintenance operation and use is required; applicable notification procedures for these events; the requested peak withdrawal quantity and rate; and potential adverse impacts. The Contingency Plan may be amended or modified to account for changing conditions. The amended or modified Contingency plan shall not be effective until the project sponsor receives written approval from Commission staff.
- p. The project sponsor shall adhere to conditions within its state Safe Drinking Water permit, if applicable.
- q. Once emergency or maintenance activities begin, the project sponsor shall notify Commission staff within two (2) days of activity commencement.
- r. In the event that the emergency condition and withdrawal or maintenance activity is expected to continue beyond 60 consecutive days, the project shall notify Commission

staff and provide a written request for extension no later than three (3) days prior to the expiration of 60 days. The Commission will determine if the project sponsor shall file the appropriate online emergency certificate application or if the project may receive a one-time extension, through review of a written request for extension providing explanation of need for extension. The Executive Director may approve a one-time extension of generally 30 days, for demonstration of good cause and appropriate risk assessment.

- s. Within two (2) days of completion of the emergency or maintenance activity withdrawal, the project sponsor shall file a Notice of End of Operations and file the required metering data with the Commission.
- t. Any further extension beyond that granted in Condition r requires that the project sponsor shall apply for an Emergency Certificate. The project sponsor shall file an appropriate online emergency certificate application with the Commission no later than three (3) days prior to the end of the extension. Coverage under this General Permit will remain in effect until the Commission acts on the application.
- u. At any time during emergency use or maintenance activity, the project sponsor retains the option of transitioning the Approval of Coverage to an individual approval. For an individual approval, the project sponsor shall satisfy the hydrogeologic evaluation requirements under 18 CFR 806.12 for the individual source and file a groundwater withdrawal application with the Commission. Coverage under this General Permit will remain in effect until the Commission acts on the individual groundwater withdrawal application.

CONDITIONS FOR CONSUMPTIVE USE – The following conditions apply for emergency groundwater withdrawals for Commission-approved consumptive use projects:

- a. The emergency or maintenance activity withdrawal quantity shall be limited to no more than the consumptive use quantity approved and required to effectively achieve the primary purpose of the project.
- b. Consumptive use of water for emergency activities associated with a mine fire are approved under this General Permit.
- c. All other Conditions of the Consumptive Use approval shall apply.