

DELAWARE RIVER BASIN COMMISSION

MEETING OF MARCH 15, 2017

Minutes

Commissioners Present: Lieutenant Colonel Michael A. Bliss, United States, Chair
Kelly J. Heffner, Pennsylvania, Vice Chair (*via teleconference*)
Jeffrey L. Hoffman, New Jersey, Second Vice Chair
Kenneth Kosinski, New York (*via teleconference*)
Kara S. Coats, Delaware (*via teleconference*)

DRBC Staff Participants: Steven J. Tambini, Executive Director
Pamela M. Bush, Commission Secretary & Assistant General Counsel
Thomas J. Fikslin, Director, Science and Water Quality Management
Richard C. Gore, Director, Finance and Administration
David Kovach, Manager, Project Review
Kenneth F. Najjar, Director, Water Resource Management
Amy L. Shallcross, Manager, Water Resource Operations

The Commission met at the Washington Crossing Historic Park Visitor Center in Pennsylvania on March 15, 2017. Because some regions of the basin were still recovering from a winter storm that had crossed the basin the previous day, Ms. Coats, Ms. Heffner and Mr. Kosinski were unable to travel to the meeting in person, and instead participated by phone. Mr. Warren was not able to participate.

Minutes. The Minutes for the Commission's regularly scheduled Business Meeting of December 14, 2016 were approved unanimously.

Special Resolution. In anticipation of Mr. Gore's impending retirement, upon a motion by Mr. Hoffman seconded by Ms. Heffner and adopted by unanimous vote, the Commission honored DRBC's Director of Finance and Administration Richard C. Gore with the following resolution:

A RESOLUTION honoring Richard C. Gore for his noteworthy public service career and three decades of distinguished service to the Delaware River Basin Commission.

WHEREAS, when Rich was appointed the Commission's Chief Administrative Officer on January 11, 1988, in addition to the experience he had acquired during 19 years of service with the County of Bucks (Pennsylvania), the City of Philadelphia, and the Southeastern Pennsylvania Transportation Authority, he brought sound judgment, professionalism, integrity and his buoyant personality; and

WHEREAS, Rich skillfully performed the duties of Chief Administrative Officer, which included responsibility for budgets, accounting, contract oversight, human resources, insurance, facilities management, and public records requests; and

WHEREAS, without hesitation, Rich answered the call from the Commissioners to serve as Acting Executive Director during the period from March 13, 2014 through July 31, 2014 to ensure a smooth leadership transition for Commissioners, staff, and DRBC's incoming Executive Director; and

WHEREAS, Rich earned a new title as Director of Finance and Administration in 2016 with additional responsibilities that included information technology management; and

WHEREAS, Rich has served as a trusted and respected advisor to numerous DRBC Commissioners and three Executive Directors; and

WHEREAS, Rich always approached his challenging and wide-ranging DRBC responsibilities with enthusiasm and his characteristic "never had a bad day" attitude; and

WHEREAS, Rich has left a legacy at the Delaware River Basin Commission and a positive impact on everyone who has had the opportunity to work with him; and

WHEREAS, Rich will officially retire from the DRBC on April 1, 2017 after nearly 30 "terrific" years; now, therefore:

BE IT RESOLVED that the Commissioners and staff extend their deepest appreciation to Richard C. Gore for his outstanding service to the DRBC and the basin, his dedication, fairness, good humor, and friendship. We wish Rich and his wife Sue good health and much happiness as they begin to enjoy a well-deserved retirement.

Mr. Gore offered his thanks and said it had been a privilege to work with the Commissioners, staff and constituents for almost 30 years. He said he would miss everyone and would remain just a phone call away. LTC Bliss again thanked Mr. Gore for his tremendous service and said it had been an honor to work with him.

Announcements. Ms. Bush announced the following meetings, noting that additional information including, staff contacts, was available on the Commission's website:

- *DRBC Monitoring Advisory and Coordination Committee (MACC).* The annual joint meeting of DRBC's MACC and the Science and the Technical Advisory Committee of the Partnership for the Delaware Estuary will take place on Tuesday, April 25, 2017 at 9:30 a.m. in the Commission's Goddard Conference Room. Ms. Bush noted that the room was newly updated, thanks in large part to Mr. Gore's focus and persistence.
- *DRBC Water Quality Advisory Committee (WQAC).* Thursday, May 11, 2017 at 9:30 a.m. in the Goddard Conference Room.
- *DRBC Water Management Advisory Committee (WMAC).* Thursday, June 22, 2017 at 10:00 a.m. in the Goddard Conference Room.

- *DRBC Flood Advisory Committee Meeting (FAC)*. The original meeting date of Wednesday, March 8, 2017 was cancelled. A new date will be determined and announced.

Hydrologic Conditions. Ms. Shallcross's report on hydrologic conditions in the Basin is summarized as follows:

The basinwide drought watch automatically terminated on January 18, 2017 after combined storage in the New York City Delaware Basin reservoirs remained at least 15 billion gallons (bg) above the drought watch curve for five consecutive days. State-issued drought watches and warnings remain in effect. Thirty-two Delaware River Basin counties in New York, New Jersey and Pennsylvania remain under state-declared drought watches and warnings. None of the counties in Delaware are under a drought declaration.

The observed precipitation for the portion of the Basin above Montague, New Jersey¹ for the period January 1, 2017 through March 13 was 7.05 inches, or 0.10 inches below normal. The observed precipitation for the Basin above Trenton² for the same period was 6.70 inches, or 0.87 inches below normal and for the Basin above Wilmington, Delaware for this period, 4.68 inches or 2.65 inches below normal.

The average observed streamflow of the Delaware River at Montague, New Jersey in February 2017 was 6,642 cubic feet per second (cfs), or 131.3 percent of the long-term average for the month. The average observed streamflow of the Delaware River at Trenton, New Jersey for the same period was 10,357 cfs, or 88.2 percent of the long-term average for the month.

For March 1st through 13th, the average observed streamflow at Montague was 6,854 cfs, or 77.7 percent of the long-term average for the month. The average streamflow at Trenton, New Jersey during the same period was 12,152 cfs, or 66.7 percent of the long-term average for the month.

In the Lower Basin, as of March 14, 2017, Beltzville Reservoir contained 13.53 bg usable, or 100.3 percent of usable storage; Blue Marsh contained 5.24 bg usable, or 118.3 percent of winter pool usable storage and is currently being refilled to the summer pool storage of 5.76 bg. As of March 13, Merrill Creek contained 13.50 bg usable, or 86.1 percent of usable storage.

In the Upper Basin, as of March 14, Pepacton Reservoir contained 120.9 bg usable or 86.2 percent of usable storage; Cannonsville contained 85.2 bg usable, or 89.0 percent of usable storage. Neversink contained 30.2 bg usable or 86.5 percent of usable storage. The total New York City Delaware Basin reservoir storage was 236.3 bg usable or 87.2 percent of usable storage.

The long-term median storage for the New York City Delaware Basin reservoirs for March 14 is 241.7 bg, or 89.2 percent.

During the month of February 2017, the location of the seven-day average of the 250-parts-per-million (ppm) isochlor, also known as the "salt front," fluctuated between River Miles (RM) 73

¹ Average observed precipitation is based on the weighted average of nine stations.

² Average observed participation is based on the weighted average of 99 stations.

and 74. The normal location of the salt front during February is RM 71, which is seven miles downstream of the Delaware-Pennsylvania state line.

As of March 13, the salt front is estimated to be at River Mile 71. This location is one mile upstream of the normal location of the salt front during March.

Resolution for the Minutes Authorizing the Executive Director to Engage LimnoTech. Dr. Fikslin presented the draft resolution, noting among other details that the value of the proposed contract was not to exceed \$150,000 or the amount awarded to the Commission or allocated by it for this purpose. Hearing no further comment, LTC Bliss requested a motion to adopt the resolution as proposed, Mr. Hoffman so moved, Ms. Coats seconded his motion and the Resolution for the Minutes authorizing the Executive Director to enter into a professional services contract with LimnoTech to support the Commission in developing a hydrodynamic and water quality model of eutrophication effects for the Delaware River Estuary was approved by unanimous vote. In a departure from custom, a roll-call voting procedure was used because three of the Commissioners were participating by phone.

The text of the adopted resolution follows:

A RESOLUTION for the Minutes Authorizing the Executive Director to enter into a professional services contract with LimnoTech to support the Commission in developing a hydrodynamic and water quality model of eutrophication effects for the Delaware River Estuary.

WHEREAS, the DRBC recognizes the vital importance of determining the appropriate designated aquatic life uses of the Delaware River Estuary and the water quality criteria necessary to protect these uses; and it appreciates the importance of reaching these determinations through a collaborative process informed by technical studies and specialized scientific and engineering expertise; and

WHEREAS, the need for a new Eutrophication Model of the Delaware Estuary to assess the attainability and associated treatment costs of higher levels of dissolved oxygen was recognized by the Commission in Resolution No. 2012-7 and is an essential and integral component of the Commission's December 2013 Nutrient Criteria Plan developed in consultation with DRBC's Water Quality Advisory Committee; and

WHEREAS, a Eutrophication Model Expert Panel has been established to guide the staff in the development of the model with the assistance of a modeling consultant to work closely with staff; and

WHEREAS, LimnoTech is uniquely qualified to serve as a modeling consultant to the Commission in developing a model of eutrophication effects for the Delaware River Estuary, based on, among other superb qualifications, the firm's:

- nation-wide experience in developing hydrodynamic and water quality models to address pollution in fresh and estuarine waters;
- basin-specific work in supporting the Commission's development of a hydrodynamic and water quality model for use in establishing total maximum daily loads

(TMDLs) for PCBs in the Delaware River Estuary, an effort that has resulted in substantial reductions in PCB loadings from both point and non-point sources;

- key role in the development and calibration of a eutrophication model for the Potomac River; and

WHEREAS, the Academy of Natural Sciences of Drexel University has awarded the Commission a grant that includes the sum of \$150,000 for a modeling consultant to assist the DRBC staff and expert panels with development, calibration and evaluation of the new model; and

WHEREAS, additional funds are being identified to support the development, calibration and application of the model to develop allocations for point and non-point sources of nutrients and assessing attainability of higher levels of dissolved oxygen; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The Executive Director is hereby authorized to enter into an agreement with LimnoTech to provide technical support to the Commission in developing a hydrodynamic and water quality model of eutrophication effects for the Delaware River Estuary.
2. The value of the agreement is not to exceed \$150,000 or the amount awarded to the Commission or allocated by it for this purpose.
3. In accordance with Section 14.9(5) of the Compact, the competitive bidding provisions of the Compact are hereby waived in view of the specialized and professional nature of the services to be provided.

This resolution shall take effect immediately.

Resolution for the Minutes Authorizing the Executive Director to Implement an E-Comment System for the Collection of Public Comment. Mr. Gore explained that the Commission invites oral and written comment on many Commission actions. Web-based tools are available that would facilitate the collection of written comments, and the staff believes that there is significant potential value in utilizing such tools for gathering, acknowledging, and providing access to these comments for the purposes of identifying issues of public concern. DRBC staff reviewed and evaluated available systems and is recommending that the Executive Director be authorized to enter into a contract for the utilization of the proprietary software known as SmartComment. A monthly pricing schedule furnished by the company for the contract would begin a one-year trial period. The contract could then be extended and renewed by the Executive Director within annual budget limitations. Assuming a volume of 1,000 to 3,000 written comments per year, the estimated monthly cost for the SmartComment system is \$2,000. Mr. Gore noted that in accordance with Section 14.9(5) of the Compact, the competitive bidding provisions of the Compact are waived in view of the specialized and professional nature of services to be procured. The complete text of the proposed resolution follows:

A RESOLUTION authorizing the Executive Director to implement a web-based system for the collection of written public comment.

WHEREAS, the Commission holds regularly scheduled public hearings at which it accepts oral and written comment four times each year; but written comments submitted at other times and by a variety of means (fax, email, hand-delivery, U.S. Mail, and delivery service) are an important way by which the Commission gathers input from the basin community – both on specific proposed actions and on issues of general concern relating to the basin’s water resources; and

WHEREAS, web-based software exists that can facilitate the submission of written comments and provide ready access and retrieval of these comments by interested parties, including members of the public, Commissioners and staff, once they have been submitted; and

WHEREAS, the Commissioners’ experience with web-based comment systems in their respective agencies has demonstrated the potential value of these tools for efficiently gathering and acknowledging the receipt of written comments, furnishing the public and agency staff with access to them, and for the agency’s use in identifying and addressing issues of concern to users of the basin’s water resources; and

WHEREAS, the DRBC staff have reviewed and evaluated available software systems and have recommended that the web-based software known as SmartComment be deployed to improve the Commission’s procedures for gathering, providing access to, organizing and responding to written public comments; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The Executive Director is authorized to enter into a contract for the utilization of the proprietary software known as SmartComment, based on the monthly pricing schedule furnished by the software company. The contract will be for a one-year trial period and may be extended or renewed by the Executive Director, within annual budget limitations.
2. Assuming a volume of 1,000 to 3,000 written comments per year, the estimated monthly cost for use of the SmartComment system is \$2,000.
3. In accordance with Section 14.9(5) of the Compact, the competitive bidding provisions of the Compact are hereby waived in view of the specialized and professional nature of the services to be procured.

This amendment shall take effect immediately.

LTC Bliss requested a motion to approve the proposed resolution. Mr. Hoffman so moved, and Ms. Heffner seconded his motion. No further comment was offered, and, using the roll-call procedure employed throughout this meeting, the Resolution for the Minutes Authorizing the Executive Director to Implement an E-Comment System for the Collection of Public Comment was approved by unanimous vote.

Executive Director’s Report. Mr. Tambini’s remarks are summarized below:

- *Retirement of Richard C. Gore.* Mr. Tambini remarked that it had been a privilege and a pleasure working with Mr. Gore on Commission matters. He wished Mr. Gore the best.

- *Future Retirement of Dr. Fikslin.* Mr. Tambini noted that DRBC's Director of Science and Water Quality, Thomas J. Fikslin, had announced his retirement to take place in April 2018.
- *DRBC Street Address.* The Township has changed the Commission's street address to 25 Cosey Road. This change does not affect DRBC's post office box number, which remains unchanged. For accurate directions to the Commission's offices, please continue to rely on DRBC's website.
- *Special Public Hearing Postponed.* Mr. Tambini noted that the public hearing originally scheduled for the afternoon of March 15, 2017 (following the business meeting) concerning aquatic life uses of the Delaware River Estuary in recognition of improved water quality, had been cancelled due to uncertainty surrounding the winter storm. He instructed the public to check the Commission's website for a new hearing date, to be announced soon.
- *New Commission Fee Structure.* Mr. Tambini announced that invoices would be issued in March for the annual monitoring coordination fee for water withdrawals approved as part of the Commission's new regulatory program fee structure that became effective January 1, 2017. He added that invoices for the annual monitoring and coordination fee for wastewater discharges would be issued in June.

Project Review Applications. David Kovach reported that a duly noticed public comment period, including a public hearing on February 15, 2017, had taken place for seventeen draft docket approvals for water-related projects. The Commission received oral and written comments on three of the draft approvals – those for the Naval Surface Warfare Center surface water withdrawal (D-2009-003 CP-2); Naval Surface Warfare Center noncontact cooling water discharges (D-2009-004 CP-2); and Eastern Shore Natural Gas Company pipeline and facility construction (D-2016-007-1), hearing items 13, 14 and 16, respectively. Mr. Kovach summarized the comments received on each of these three projects and staff's responses.

The comments on hearing item 14, a draft docket for the Naval Surface Warfare Center (NSWC) in Philadelphia, PA (D-2009-004 CP-2), concerned the potential for adverse temperature impacts to the main stem Delaware River from the proposed increased discharge. Mr. Kovach explained that analyses of these potential impacts indicated that temperature effects would be confined to the Navy Reserve Basin and would not extend to the Delaware River.

Mr. Kovach said that the balance of the comments received concerning the two NSWC projects came in the form of approximately 185 form letters. The form letters did not include specific reasons for opposing the project, but requested that the Commission deny the applicant's requests to increase its withdrawals and discharges of basin waters. Staff presumes that the form letter commenters shared a concern that adverse temperature impacts would be felt in the Delaware River. However, based on the referenced analysis, staff does not expect any temperature impacts to the Delaware River as result of the proposed changes.

Oral and written comments were accepted on the Eastern Shore Natural Gas Company project, hearing item 16. The written comments consisted primarily of 185 form letters requesting that the project be disapproved, but without explaining why. However, most of the comments offered at the public hearing, as well as some individual written comments, contended that the Commission

should not approve any new fossil fuel infrastructure. Concerns about stream crossings and whether the DRBC had thoroughly reviewed this project were also expressed. Mr. Kovach confirmed that DRBC had performed thoroughly the review required by the Compact and DRBC regulations.

In conclusion, Mr. Kovach reported that after considering the concerns raised by commenters, staff concluded that no substantive changes to the draft dockets were appropriate. He recommended that the Commission approve the dockets comprising hearing items 1 through 17.

LTC Bliss thanked Mr. Kovach and requested a motion to approve the seventeen (17) dockets that had been subjects of the public hearing on February 15. Mr. Hoffman so moved, and Ms. Coats seconded his motion. LTC Bliss explained that as a representative of the federal government, he was abstaining from voting on hearing item number 16, the draft docket approval for Eastern Shore Natural Gas Company (D-2016-007-1). Using the roll call procedure employed throughout this meeting, the 17 docket applications were approved. All except the docket for Eastern Shore Natural Gas Company (hearing item 16) were adopted by unanimous vote. Hearing item 16 for Eastern Shore Natural Gas Company was approved by a vote of four in favor and one abstention.

Statement concerning the Status of DRBC Adoption of Regulations for Natural Gas Development Activity. Commission Chair *pro tem* LTC Michael A. Bliss made the following statement concerning DRBC's adoption of regulations for natural gas development activity:

1. The Commissioners will be considering for action at today's business meeting the draft 2017-2019 Water Resources Program. It is accurate that the draft 2017-2019 Water Resources Program includes a statement about natural gas rulemaking. It is also accurate that the same or similar statements have been included in each Water Resources Program since 2010 that has been adopted and approved by the Commissioners following a duly noticed public hearing.
2. There is no other activity or action planned on natural gas development rulemaking at today's quarterly Commission Business Meeting.
3. On May 5, 2010, at a DRBC business meeting, the DRBC Commissioners unanimously directed DRBC staff to develop draft regulations on well pads in the shales for notice and comment rulemaking and postponed the DRBC's consideration of well pad dockets until regulations are adopted.
4. By Resolution and Order dated December 8, 2010, the Commission preserved the right of certain persons to file an application raising the issue of whether exploratory natural gas well projects are properly subject to the Commission's review and approval jurisdiction, and to obtain an administrative hearing if the application is denied or not considered. In one pending federal court litigation, DRBC offered the plaintiff-landowner seeking to install a natural gas well and develop it through hydraulic fracturing the opportunity to seek a jurisdictional determination from the Commission.

5. Draft natural gas development regulations were published on December 9, 2010 and the comment period closed on April 15, 2011. Nearly 69,000 comments were submitted, and revised draft natural gas development regulations were issued on November 8, 2011.
6. Regulations have not yet been adopted, and since 2011 the Commission has neither received nor processed any applications for natural gas development projects. The effect has been a *de facto* moratorium on unconventional shale gas drilling within the Delaware River Basin.
7. DRBC staff and the staff of all the signatory parties collectively have spent, and continue to spend, extensive time and effort on matters relating to the regulation of natural gas development in the Delaware River Basin. Since 2010, the Basin states in which tight shale formations potentially containing recoverable natural gas are most likely to occur (PA and NY) have also worked to finalize laws, regulations and, in the case of New York, a state environmental impact analysis, to regulate or control natural gas development activities. The process has been dynamic and complex.
8. There have been numerous meetings and discussions between DRBC staff and member agencies on this issue since 2010, and those meetings and discussions are expected to continue in the future. The Commissioners and staff will not comment publicly on any ongoing deliberations.
9. The current activities of the DRBC staff, including the DRBC Executive Director and counsel, related to natural gas development activities are undertaken with the knowledge and support of the DRBC Commissioners.
10. The DRBC Commissioners, not the DRBC staff or executive director, are the decision makers on this matter.
11. There are no current plans to take a vote on the draft rules that were published in 2011. Any new or continued rulemaking initiated by the Commission would be subject to further public notice and comment.
12. A vote on any rulemaking can occur only at a duly noticed DRBC business meeting that is open to the public.
13. The DRBC Commissioners continue to confer in good faith on a path forward.
14. The Commissioners recognize that there is a desire for more information and updates on these matters, and we encourage the public and the media to reference the DRBC web site for the most accurate and up-to-date public information.

Resolution to Adopt the Commission's Water Resources Program FY-2017-2019. Dr. Najjar explained that the Delaware River Basin Compact provides in relevant part that the Commission shall annually adopt a Water Resources Program (WRP) based on the Comprehensive Plan, consisting of projects and facilities which the Commission proposes to undertake in a reasonably

foreseeable period. The selected period for the current draft plan was determined to be three years. The Compact also provides that a public hearing will be held prior to the adoption of the WRP.

The Commission on February 1, 2017 published the draft WRP along with a notice of public hearing on that document to take place on Wednesday, February 15, 2017 at 1:30 p.m. at the Washington Crossing Historic Park Visitor Center. The hearing took place at the scheduled time and ran until the approximately 20 people who wished to be heard individually had the opportunity to do so. In addition, the approximately 200 members of the public who attended the hearing called collectively for a permanent ban on natural gas drilling in the basin. DRBC also received a large volume of written comments, primarily via email, prior to the close of the comment period on the draft WRP at 5:00 p.m. on February 21, 2017. Like the comments received at the public hearing, these for the most part used consideration of the annual WRP as the occasion to voice concerns about natural gas development and/or natural gas infrastructure in the basin. The written submissions can be grouped in four categories:

- Seventy-two (72) were unique submissions hand-delivered during the public hearing, delivered by USPS or other carriers in hard copy, or submitted electronically, calling for “continuation of the de facto moratorium” or a “permanent ban on fracking” in the basin. Some included links to and/or copies of scientific studies and investigations.
- Another 185 written comments submitted by one or another electronic avenue were more formulaic. These typically requested that the portion of the draft WRP addressing natural gas development be “cancelled” and opposed three draft dockets scheduled for hearing on February 15: item 16 for the Eastern Shore Natural Gas Company pipeline project and items 13 and 14 for the Naval Surface Warfare Center in Philadelphia. In addition, this group called for continuation of the “de facto moratorium on pipeline construction and fracking of the Delaware River Basin” (notwithstanding that the Commission has not suspended natural gas pipeline projects by means of a *de facto* moratorium or otherwise and has suspended its consideration of natural gas drilling projects pending the adoption of regulations specifically addressing these activities, but without adopting a “moratorium”).
- The largest category of written submissions consisted of messages apparently linked to the Commission’s consideration of the WRP FY-2017-2019 but without any explicit mention of it, as follows:
 - approximately 8,500 individual letters, form letters and petitions calling upon the Commission to adopt a permanent ban on fracking in the basin.
 - Thirty-eight (38) form letters calling upon the Commission to complete its rulemaking and allow drilling in the basin to proceed.

A detailed comment and response document prepared by the staff describes the written submissions on the WRP in greater detail. Chair *pro tem* LTC Bliss’s statement set forth above addresses the status of the Commission’s rulemaking on natural gas development activities, and makes clear that such rulemaking would be unaffected by adoption of the WRP.

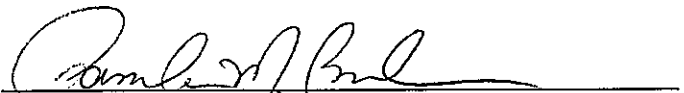
LTC Bliss requested a motion on the Resolution adopting the Commission’s Water Resources Program FY-2017-2019. Mr. Hoffman so moved, Ms. Coats seconded his motion and Resolution

No. 2017-1 was approved by unanimous vote, using the roll-call procedure employed for this meeting.

Audio Recording. An audio recording of the public hearing of February 15, 2017 is on file with the Commission Secretary. A description of each of the applications for the dockets approved during the Business Meeting of March 15, 2017 is provided as an attachment to these Minutes.

Adjournment. LTC Bliss asked the Commissioners and staff whether there were any other matters to be considered that day. Hearing none, he requested a motion to close the business meeting prior to the commencement of the Open Public Comment session. Mr. Hoffman so moved, Mr. Kosinski seconded his motion, and the business meeting was adjourned by unanimous vote at approximately 2:45 p.m.

Open Public Comment. After adjournment of the business meeting, Mr. Tambini conducted an Open Public Comment session for off-the-record comment by stakeholders on water resource issues affecting the basin.


Pamela M. Bush, J.D., M.R.P.
Commission Secretary and Assistant General Counsel

ATTACHMENT

DESCRIPTIONS OF PROJECTS APPROVED BY THE COMMISSION DURING THE BUSINESS MEETING OF MARCH 15, 2017

Background. Projects subject to Commission review in accordance with the *Delaware River Basin Compact* and Commission regulations must have the Commission's approval in the form of a docket, permit or resolution (collectively, "docket"). The Commission's project review process takes six to nine months to complete, and the public is informed of the status of project applications by a variety of means during that period. Each project for which an application is received is added to the "Project Review Status Report" maintained on the DRBC website. This report includes the applicant's name and project location, a description of the proposed project, the docket number assigned to the project, and the name of the staff member reviewing the project. A list of applications received also is compiled approximately five times a year and posted on the Commission's website as a "Notice of Applications Received" (NAR). An "Interested Parties List" (IPL) is created for each project under review. Anyone can have his or her name added to the IPL for a given project. All those listed on the IPL receive email notification of public notices for the project as they are posted on the Commission's website, including the notice advertising the public hearing. Members of the public seeking additional information about a project may contact the staff member reviewing the project or arrange by appointment to review the relevant Project Review file at any time that is mutually convenient for the staff and the party.

Approximately six weeks before the Commission's scheduled public hearing date, draft dockets are circulated to the Commission's members for review and comment by the appropriate state and federal agencies. Shortly thereafter, a public notice, including descriptions of the draft dockets, is filed with state and federal bulletins or registers. Ten or more business days prior to the hearing date, the hearing notice, along with draft dockets, is posted on the Commission's website. Written comment on hearing items is accepted through the close of the public hearing. At the Commissioners' regularly scheduled public meetings, the Commissioners may approve, disapprove or postpone consideration of any docket for which a hearing has been completed. Approved dockets are posted on the Commission's website as quickly as possible following the date on which the Commission acted. Delay of a few days may occur to complete clerical work, particularly in instances in which the Commissioners approve a docket with modifications.

The projects are customarily considered in three categories – *Category A* – project renewals with no substantive changes; *Category B* – project renewals with substantive changes; and *Category C* – projects not previously reviewed by the Commission. All the projects approved by the Commission on March 15, 2017 were subjects of a duly noticed public hearing on February 15, 2017. Descriptions of the projects (based on the applications received, which may vary from final projects) for which the Commission issued approvals on March 15 are listed below, in the order in which the dockets were presented at the February 15 public hearing.

A. *Renewals with No Substantive Changes (hearing items 1 through 10).*

1. Cambridge Lee Industries, Inc., D-1970-120-3. An application to renew the applicant's existing discharge of industrial process water from its copper pipe manufacturing facility. The facility will continue to discharge 0.0112 million gallons per day (mgd) of cooling

tower blowdown and pretreatment system backwash from Plant No. 4 operations (Outfall No. 001), and 0.76 mgd of cooling tower blowdown and noncontact cooling water (NCCW) from Plants Nos. 2 and 3 operations (Outfall No. 002). The application includes a request to continue a total dissolved solids (TDS) determination of 15,200 milligrams per liter (mg/l) for Outfall No. 001. No modifications to the existing facilities are proposed. The facility will continue to discharge industrial process water from two outfalls (Outfalls Nos. 001 and 002) to the Schuylkill River at River Mile 92.47 - 86.5 (Delaware River - Schuylkill River), located in Ontelaunee Township, Berks County, Pennsylvania.

2. Middle Smithfield Township, D-1973-209 CP-3. An application to renew the approval of the applicant's existing 0.05 mgd Winona Lakes Wastewater Treatment Plant (WWTP) and its discharge. No modifications to the WWTP are proposed. The WWTP will continue to discharge treated effluent to Bush Kill at River Mile 226.9 - 5.5 (Delaware River - Bush Kill) and is located within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Middle Smithfield Township, Monroe County, Pennsylvania.
3. Myerstown Borough, D-1974-176 CP-4. An application to renew the approval of the existing 2.0 mgd Myerstown Borough WWTP and its discharge. No modifications are proposed. The WWTP will continue to discharge to Tulpehocken Creek, which is a tributary of the Schuylkill River, at River Mile 92.47 - 76.8 - 34 (Delaware River - Schuylkill River - Tulpehocken Creek), in Jackson Township, Lebanon County, Pennsylvania.
4. Pennsylvania American Water Company, D-1991-014 CP-4. An application to renew the approval of the applicant's existing 0.1833 mgd Blue Mountain Lake WWTP and its discharge. No modifications to the WWTP are proposed. The WWTP will continue to discharge treated effluent to Sambo Creek, a tributary of Broadhead Creek at River Mile 213.0 - 5.3 - 2.9 (Delaware River - Broadhead Creek - Sambo Creek), and is located within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Stroud Township, Monroe County, Pennsylvania.
5. Plum Creek Municipal Authority, D-1991-020 CP-4. An application to renew the approval of an existing groundwater withdrawal of up to 12.4 million gallons per month (mgm) to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 3, 6 and 8. The requested allocation is not an increase from the previous allocation. The project wells are completed in the Long Run Member of the Catskill Formation. The project is located in the Plum Creek Watershed in Wayne and South Mainheim Townships, Schuylkill County, Pennsylvania.
6. Lake Adventure Community Association, D-1993-062 CP-3. An application to renew the approval of the applicant's existing 0.16 mgd WWTP, its surface water discharge and its discharge to land via spray irrigation. No modifications to the WWTP are proposed. The WWTP will continue to discharge treated effluent to an unnamed tributary (UNT) of Birchy Creek at River Mile 273.2 - 13.3 - 0.2 - 0.7 (Delaware River - Shohola Creek - Birchy Creek - UNT Birchy Creek), and is located within the drainage area of the section

of the main stem Delaware River known as the Upper Delaware, which is classified as Special Protection Waters, in Dingman Township, Pike County, Pennsylvania.

7. Downingtown Area Regional Authority, D-1998-033 CP-4. An application to renew the approval of the applicant's existing 7.5 mgd Downingtown Regional Water Pollution Control Center WWTP and its discharge. Treated effluent will continue to be discharged to the East Branch Brandywine Creek at River Mile 70.7 - 1.5 - 20.0 - 7.7 (Delaware River - Christina River - Brandywine Creek - East Branch Brandywine Creek) via Outfall No. 001, in East Caln Township, Chester County, Pennsylvania.
8. Skytop Lodge Corporation, D-2006-013-3. An application to renew the approval of the existing 0.075 mgd Skytop Lodge WWTP and its discharge. No modifications to the WWTP are proposed. The WWTP will continue to discharge treated effluent to Leavitt Branch, which is a tributary of Brodhead Creek, at River Mile 213 – 21.2 – 3.8 (Delaware River – Brodhead Creek - Leavitt Branch), within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in Barrett Township, Monroe County, Pennsylvania.
9. Blue Ridge Country Club, D-2006-018-2. An application to renew the approval of an existing groundwater withdrawal of up to 10.59 mgm to irrigate the applicant's golf course from existing Wells Nos. 1, 2, 4 and 5 and an existing constructed pond. The project wells are completed in the Walcksville Member of the Catskill Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Fireline Creek Watershed in Lower Towamensing Township, Carbon County, Pennsylvania within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.
10. Pocono Manor Investors, LP, D-2006-026 CP-4. An application to renew the approval of the existing 0.14 mgd Pocono Manor WWTP and its discharge. No modifications to the WWTP are proposed. The WWTP will continue to discharge to Swiftwater Creek, which is a tributary of Paradise Creek, which is a tributary of Brodhead Creek, at River Mile 213.0 - 11.4 - 4.4 - 5.3 (Delaware River - Brodhead Creek - Paradise Creek - Swiftwater Creek) and is located within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Pocono Township, Monroe County, Pennsylvania.

B. Renewals with Substantive Changes (hearing items 11 through 14).

11. NGK Metals Corporation, D-1989-053-4. An application to approve the discharge of remediation water from the existing 0.17 mgd groundwater treatment plant (GTP), as well as a withdrawal of up to 5.27 mgm of groundwater from existing Wells Nos. DW-12, DW-13 and DW-32. The requested allocation is not an increase from the previous allocation. The project wells are completed in the Allentown Formation. The GTP will continue to discharge treated groundwater to Laurel Run, which is a tributary of the Schuylkill River via Outfall No. 2 at River Mile 92.47 - 80.4 - 2.3 (Delaware River - Schuylkill River - Laurel Run) in Muhlenberg Township, Berks County, Pennsylvania.

12. Nestlé Purina Petcare Company, D-1984-002-6. An application to approve new Well No. 8 for inclusion in the applicant's manufacturing water supply system and to renew the approval of an existing groundwater withdrawal of up to 26.784 mgm from existing Wells Nos. 2, 5, 6, 7 and new Well No. 8. The requested allocation is not an increase from the previous allocation. The project wells are completed in the Epler Formation, which is part of the Beekmantown Group in the Jordan Creek Watershed, within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in South Whitehall Township, Lehigh County, Pennsylvania.
13. Naval Surface Warfare Center, Philadelphia Division, D-2009-003 CP-2. An application to renew the approval of an existing surface water withdrawal and increase the allocation from 1,147.25 mgm to 2,263.248 mgm from existing surface water intakes Bldg. No. 633 NCCW001 and Bldg. No. 824 NCCW 001 located in the Navy Reserve Basin, which is connected by a channel linked to the Schuylkill River. The surface water is used for the purpose of once-through non-contact cooling of land-based test sites of ship systems associated with the Naval Surface Warfare Center, Philadelphia Division. The intakes and reserve basin are located in the tidal portion of the Schuylkill River in the City of Philadelphia, Philadelphia County, Pennsylvania.
14. Naval Surface Warfare Center, Philadelphia Division, D-2009-004 CP-2. An application to renew the approval of an expansion of the discharge of NCCW and process water from the docket holder's Naval Ship Systems Engineering Station (NAVSSSES). The NAVSSSES currently withdraws water from the Navy Reserve Basin, which is located on the tidal Schuylkill River in Delaware River Water Quality Zone 4, for temporary, intermittent, land-based tests of ship systems and discharges up to 24.0 mgd of NCCW from Outfall No. 001 to the Navy Reserve Basin and up to 0.60 mgd of process water from Outfall No. 005 directly to the Delaware River in Water Quality Zone 4. The docket holder proposes to expand the capacity of the ship systems tests to discharge up to 72.0 mgd of NCCW from Outfall No. 001 to the Navy Reserve Basin. The discharge from Outfall No. 005 will remain at 0.60 mgd. The facility is located in the City of Philadelphia, Philadelphia County, Pennsylvania.

C. Projects Not Previously Reviewed by the Commission (hearing items 15 through 17).

15. Upper Makefield Township, D-2016-006 CP-1. An application to approve the applicant's existing 0.0202 mgd Dutchess Farms WWTP and its discharge. Treated effluent will continue to be discharged to an UNT of Jericho Creek at River Mile 144.1 - 3.7 - 0.9 (Delaware River - Jericho Creek - UNT Jericho Creek) via Outfall No. 001, within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Upper Makefield Township, Bucks County, Pennsylvania.
16. Eastern Shore Natural Gas Company, D-2016-007-1. An application to approve the construction of the applicant's 2017 Expansion Project, including four loops totaling approximately 7.81 miles of new natural gas pipeline and one above-ground facility (mainline valve) located within the Delaware River Basin. Hydrostatic test water will be

obtained from municipal sources and discharged to vegetated, upland areas. The Jennersville Loop portion of the project crosses three designated tributaries of the White Clay Creek Natural Wild and Scenic River and the Summit Loop portion of the project crosses the C&D Canal Wildlife Management Area, which are recreation project areas designated in the Commission's Comprehensive Plan. The Delaware River Basin portion of the project is located in the Doe Run, West Branch White Clay Creek, Upper Christina River and C&D Canal East – Delaware River Watersheds in Highland, Penn, New London and Franklin townships, Chester County, Pennsylvania, Cecil County, Maryland, and New Castle County, Delaware.

17. Aqua Pennsylvania Wastewater, Inc., D-2016-011-1. An application to approve the applicant's existing 0.070 mgd WWTP and its discharge. Treated effluent will continue to be discharged to Pond Creek, which is a tributary of the Lehigh River, at River Mile 183.7 - 88.8 - 2.5 (Delaware River - Lehigh River - Pond Creek), within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Thornhurst Township, Lackawanna County, Pennsylvania.
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