

DOCKET NO. D-2001-040-2

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

CBH2OLP

Surface Water Withdrawal

Pocono Township, Monroe County, Pennsylvania

PROCEEDINGS

This docket is issued in response to an Application submitted by Langan Engineering and Environmental Services, Inc. on behalf of CBH2OLP (Camelback or docket holder) to the Delaware River Basin Commission (DRBC or Commission) on January 25, 2013 for an increase of an allocation of surface water and review of an existing surface water withdrawal project (Application). The project withdrawal is not subject to approval by the Pennsylvania Department of Environmental Protection (PADEP).

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Monroe County Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on September 11, 2013.

A. DESCRIPTION

1. Purpose. The purpose of this project is to approve an allocation of up to 160 million gallons per month (mgm) of surface water from Intake No. 1 on the Pocono Creek for snow making operations at the docket holder's existing Camelback Mountain Resort (See monthly allocation table in Condition II.d in the Decision section of this docket). This allocation is an increase from the docket holder's previous allocation of up to 120 mgm of surface water from Intake No. 1. The increase in allocation is necessary to expand snow making capabilities to make as much snow as possible when climatic conditions are ideal and support possible future expansion of the ski and snow tubing areas. This docket also approves a seasonal allocation of up to 30 million gallons and 15 million gallons of surface water from intakes located in Massad Pond and Barney's Pond, respectively. These existing surface water withdrawals were active, but not previously approved by the Commission.

2. Location. Camelback Mountain Resort is located on the north slope of Camelback Mountain, approximately one mile south of Interstate Route I-80 in Pocono Township, Monroe County, Pennsylvania. The existing surface water intake is located on Pocono Creek, a tributary to Brodhead Creek, in Pocono Township, Monroe County, Pennsylvania within the drainage area to the Middle Delaware, which is classified as Special Protection Waters. Pocono Creek is classified by the Pennsylvania Department of Environmental Protection (PADEP) as a High Quality – Cold Water Fishery (HQ-CWF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The surface water withdrawals will continue to serve the existing snowmaking facilities during the skiing season at Camelback Mountain Resort in Pocono Township, Monroe County, Pennsylvania. Camelback currently has approximately 160 acres of ski area and 10 acres of snow tubing area. The service area is shown on a map entitled “Camelback Ski Area Site Plan/Snow Making System” submitted with the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. **Physical features.**

a. **Design criteria.** The existing intake on Pocono Creek was constructed in 1963 for snowmaking use exclusively. The Camelback Mountain Resort is a major component of the Pennsylvania ski industry. The facility is open nearly 4 months of the ski season and would not be viable without snowmaking.

Currently, peak withdrawals occur during the months of December and January with the most recent maximum monthly withdrawal of 118.9 mg (3.8 mgd) occurring in December 2009. Typically 75% of the total annual withdrawals occur in December and January, with the remaining 25% occurring in November, February, and March. Based on increased snow making capabilities and future expansion of the ski and snow tubing areas, Camelback estimates the following surface water allocations will meet snow making demands between the months of November and March: 160 mg during the months of December and January; 70 mg during the months of February and November; and 15 mg during the month of March. During the remainder of the year, incidental maintenance related uses of surface water supply are expected at a total maximum withdrawal of up to 2.8 mgm.

Existing Intake No. 1 has adequate capacity to supply the increased project water supply requirements. The combined use of two existing pumps at the intake can supply up to 9.792 mgd of water from Pocono Creek to the snowmaking operation. Surface water from Pocono Creek percolates through creek bed substrate into slots in a concrete wet well at the intake pump house adjacent to the creek, and the intake velocity is low enough (at approximately 0.5 feet per second) not to cause turbulent conditions in the stream water or impingement of fish. All water pumped from Pocono Creek is conveyed to Reservoir #2, a 3-million gallon capacity lined water storage facility, where it is then pumped to the ski slope snow guns, which produce snow when the water is mixed with compressed air at sub-freezing temperatures. All water used for snow making at the snow tubing park is pumped from an intake located in Massad Pond, described below.

Runoff from the ski slopes is captured at Camelback by a network of man-made and natural drainage swales that discharge into Reservoir #2, and to a lesser degree, Massad Pond and Barney’s Pond. Reservoir #2 contains a 20-mil polypropylene liner to limit seepage losses. Massad Pond and Barney’s Pond are located on Coolmoor Creek. Reservoir # 2, Massad Pond and Barney’s Pond contain spillways and/or sluice gates for storage and flood management. Camelback staff provide day-to-day management of the sluice gate discharges to ensure

continued flow in the Coolmoor Creek, while minimizing sediment loading to the creek. Camelback also maintains one pump in Barney's Pond and two pumps in Massad Pond that enable the transfer of water from these ponds to Reservoir #2 as needed. Additionally, water is pumped directly from Massad Pond to the snow making equipment at the snow tubing park and the ski slope area. The combined storage capacity of the one reservoir and 2 ponds is 8.5 mg, with an operating capacity of 3.3 mg above the intake shut off limit. A maximum of approximately 8.64 mgd of storage water can be delivered to snowmaking equipment from the reservoir and ponds.

The previous docket indicated that the capacity of the Pocono Creek intake pumps was limited to 5.18 mgd. However, a second 12-inch diameter supply line was installed between Intake No. 1 and Reservoir #2 prior to the 2007-2008 winter ski season. This installation of the second supply line decreased friction losses and allowed the pumps to pump more flow through the two lines using less horsepower. Additionally, Camelback has improved snow gun efficiencies over the last several years. The newer guns allow Camelback to maximize water flow at higher wet bulb temperatures than during previous years and maximizes water flow with the available air capacity of Camelback's air plant.

Currently, the docket holder's Pocono Creek withdrawal is subject to passby conditions. The Pennsylvania Fish and Boat Commission (PF&BC) evaluated the increased projected water use and determined that non-substantial habitat impairment would occur if the passby requirements described in the Findings Section of this docket are implemented by Camelback.

b. **Facilities.** No new surface water supply facilities are proposed. The increased withdrawal from Pocono Creek will be accomplished with existing intake structures, pumps, and reservoirs. However, additional distribution lines and snow guns may be installed in the future. Operation of snowmaking systems has changed over the years, and it is now the policy of the ski area to make as much snow as may be needed when climate conditions are ideal.

The existing surface water intakes have the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (MGD)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
No. 1	Pocono Creek	9.792	1.78	1963
No. 1	Massad Pond - Coolmoor Creek	1.728	0.2	Pre-1960
No. 2	Massad Pond - Coolmoor Creek	1.440	0.2	Pre-1960
No. 1	Barney's Pond - Coolmoor Creek	0.720	NA	Pre-1960

Intake No. 1 on the Pocono Creek is metered.

Intake No. 1 in Massad Pond and Intake No. 1 in Barney's Pond are not currently metered. Intake No. 2 in Massad Pond is metered at the individual snow making guns in the snow tubing area.

The Barney's Pond intake No. 1 is used only for back-up supply purposes.

The Pocono Creek intake is located within the 100-year floodplain.

c. **Other.** Camelback obtains its potable water supply from 11 on-site wells. The wells are permitted by the PADEP as transient non-community public water supply wells. According to records submitted by the docket holder to the Commission and PADEP, the combined withdrawal of all potable wells is below the Commission's groundwater quantity review threshold.

Wastewater is conveyed to the docket holder's 0.4 mgd sewage treatment facility most recently approved by DRBC Docket No. DRBC Docket No. D-86-21 (REVISED) on September 28, 1988. The PADEP issued its most recent NPDES Permit No. PA0060569 on April 26, 2011 for this treatment facility. The treatment facility has adequate capacity to continue to receive wastewater from the project.

d. **Cost.** The overall cost of this project is estimated to be \$8,000.

B. FINDINGS

Special Protection Waters

In 1992, the DRBC adopted Special Protection Waters requirements, as part of the DRBC *Water Quality Regulations* (WQR), designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap were classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area.

On July 16, 2008, the DRBC approved amendments to its *Water Quality Regulations* that provide increased protection for waters that the Commission classifies as Special Protection Waters. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for Special Protection Waters designation and clarity on definitions and terms were updated for the entire program.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the docket holder's service area which is also located within the drainage area of SPW. The service area of the docket

holder is located within in the drainage area to the SPW. Since this project does entail additional construction and expansion of service area (i.e., there are new or increased non-point source loads associated with this approval), the NPSPCP requirement is not applicable at this time.

The stormwater management ordinance requirements contained in the Brodhead-McMichael Creek Watershed Act 167 Plan (Act 167 Plan), approved by the PADEP on March 10, 2006, satisfy the NPSPCP of the Commission. The municipality in which the Camelback project is located (Pocono Township) has adopted and implemented a stormwater ordinance in accordance with the Act 167 Plan. Accordingly, DECISION Condition C.II.aa. has been included in this docket.

Surface Water Gaging and Passby Flow

The docket holder's Pocono Creek surface water withdrawal will continue to be subject to seasonal passby flow requirements. Typically, during the winter months, flows in Pocono Creek tend to be double the yearly average flows. During non-ski months, while the stream flows tend to be lower, the withdrawals are much lower and are only for incidental maintenance uses. The non-ski season withdrawals are not considered substantial compared to average flows; however, a Q7-10 passby flow is also required during these times. Because the majority of the withdrawal is seasonal, a passby flow condition has been developed to protect in-stream uses relative to the proposed withdrawal rates versus expected monthly stream flows.

The estimated contributing drainage area to the Pocono Creek above the Camelback Pocono Creek Intake is approximately 11 square miles. The estimated seven-day low flow with a recurrence interval of 10 years (Q7-10) at the point of withdrawal is 1.78 cubic feet per second (cfs). This value is based on USGS data collected as part of the Pocono Creek Pilot Study.

The PF&BC has continued to recommend a passby flow that is designed to prevent a physical habitat loss of no more than approximately 5%; this is based on application of its draft policy derived from the "Pennsylvania-Maryland Instream Flow Study" (PA-MA Study) for a high quality cold water fishery. In modeling the increased withdrawal rate, the PF&BC utilized the Ridge and Valley Freestone Wild Brown Trout and Combined Species category. The PA-MA study model determined the necessary passby flow to be 1.78 cfs for the months April through September, and 4.2 cfs for the rest of the year. Through use of Camelback's storage facilities and management of its off-slope storage of snow, Camelback should be able to provide sufficient snow during all but the most severe low flow years.

From April 1 through September 30, the project withdrawal must not cause the stream flow in Pocono Creek to be less than 1.78 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that the withdrawal does not result in flow less than 1.78 cfs from passing the intake. Withdrawals shall cease entirely if the flow as measured below the intake, less the withdrawal from the intake is 1.78 cfs or less. Whenever the stream flow below the intake is less than 1.78 cfs, no withdrawal from Pocono Creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Pocono Creek as measured below the intake is at least 1.92 cfs.

From October 1 through March 31, the project withdrawal must not cause the stream flow in Pocono Creek to be less than 4.2 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that the withdrawal does not result in flow less than 4.2 cfs from passing the intake. Withdrawals shall cease entirely if the flow as measured below the intake, less the withdrawal from the intake is 4.2 cfs or less. Whenever the stream flow below the intake is less than 4.2 cfs, no withdrawal from Pocono Creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Pocono Creek as measured below the intake is at least 12.2 cfs.

The docket holder's Pocono Creek streamflow monitoring program has been in operation since the 2002-2003 snow making season. The docket holder's gaging station consists of a stilling well presently located approximately 150 feet downstream from the Pocono Creek intake. Water levels in the stilling well are measured with a bubbler-type flow meter that measures the water level in Pocono Creek every 15 minutes and automatically calculates and records the stream flow based on a data point rating curve. The docket holder periodically measures the discharge in Pocono Creek to develop and refine the rating curve data.

Camelback is planning to relocate the stilling well an additional 50 feet downstream of its current location. High flows and flooding conditions cause changes in the stream channel in the present stilling well location which requires more frequent manual discharge measurements and refinements of the rating curve. Relocation of the stilling well has been scheduled and will be completed prior to the start of the 2013-2014 snow making season. This docket approves the relocation of the stilling well approximately 50 feet downstream from its current location and requires continued stream monitoring in accordance with the approved monitoring plan.

Prior to the approval of this docket, neither the Massad Pond nor Barney's Pond water withdrawals had a withdrawal allocations assigned to them. Based on previous years usage and taking into account future snow making need, the docket holder has requested seasonal allocations totaling 30 million gallons for the Massad Pond intakes and 15 million gallons from Barney's Pond. Currently, withdrawals from Massad Pond are metered annually at the individual snow guns. This docket requires that all withdrawals from Barney's Pond and Massad Pond be metered on a daily basis. This data will be used to provide monthly allocations at the time of the next docket approval.

The Docket Holder's Massad Pond has not previously been subject to a conservation release requirement. Although no conservation release was required, Camelback has always had the sluice gate open enough to allow water to Coolmoor Creek in the event the pond was pumped down below the spillway. The approximate drainage area of the Coolmoor Creek Watershed above the Massad Pond Dam is 1.4 square miles. The estimated Q7-10 flow just downstream of the dam is approximately 0.2 cubic feet per second (cfs) or 0.129 million gallons per day (mgd). This flow was based on the Q7-10 flow and drainage area of the Pocono Creek (0.16 cfs per square mile of drainage area). The docket holder is required to maintain a minimum flow in Coolmoor Creek downstream of the Massad Pond dam of 0.2 cfs at all times. When inflow to Massad Pond is insufficient to maintain the required release, no withdrawals from Massad Pond shall be made.

Within three months of the date of approval of this Docket (December 12, 2013), the docket holder shall submit an Operation Plan, subject to review and approval by the Executive Director of the DRBC, which shall include a means to maintain, monitor, and report the conservation release to Coolmoor Creek below the Massad Pond Dam, in accordance with Condition II.k. in the DECISION Section. The conservation release requirement will become effective on a date specified by the Executive Director upon review and approval of the Operation Plan.

Surface Water Charges

The docket holder shall continue to pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended as described in Condition C.II.g. in the DECISION section.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

The DRBC estimates that the project withdrawals, used for the purpose of snow making, result in a consumptive use of 22 percent of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

Drought Management and Contingency Plan (DMCP)

Section 2.3.5.1 C. of the Commission's *Rules of Practice and Procedure (RPP)*, requires industrial and commercial water withdrawals in excess of one million gallons per day to develop a contingency plan including emergency conservation measures to be instituted in the event of a Commission declared drought or other water shortage. Resolution No. 83-14 amended the Commission's *Water Code* (Section 2.1.4) to include the conservation goal of a 15 percent reduction in depletive use during drought conditions. Hereafter referred to as drought management and contingency plans (DMCPs), DMCPs must contain the following: source of water supply; the average daily and monthly peak water withdrawal; average daily and peak monthly consumptive use (difference between quantity withdrawn and quantity returned to the ground or surface waters of the basin); description of recycling and conservation measures; point of discharge (where water is returned or discharged); types of products produced; normal employment levels (numbers); and estimated employment (numbers) and economic impact for curtailment of water usage for the following levels of curtailment: 10%; 25%; 35%; 50% and 100%. The DMCP shall be submitted to the Commission within 6 months (March 12, 2014) of the docket approval date. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director. (see Condition C.II.p.).

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

C. DECISION

- I. Effective on the approval date for Docket No. D-2001-040-2 below:
- a. Docket No. D-2001-40 is terminated and replaced by Docket No. D-2001-040-2.
- II. The project and appurtenant facilities as described in the Section A “Physical features” are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:
- a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. The docket holder shall register with and report to the PADEP all surface and groundwater sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).
- b. The intake and operational records shall be available at all times for inspection by the DRBC.
- c. The intake and wells shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.
- d. No intake shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

POCONO CREEK INTAKE NO. 1		
MONTH	MAXIMUM INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MILLION GALLONS)
November	6,800 gpm	70
December	6,800 gpm	160
January	6,800 gpm	160
February	6,800 gpm	70
March	6,800 gpm	15
April through October	6,800 gpm	2.8

INTAKE ID	MAXIMUM INSTANTANEOUS RATE (GPM)	SEASONAL ALLOCATION (MILLION GALLONS)
Massad Pond Intake 1	1,200 gpm	30
Massad Pond Intake 2	1,000 gpm	
Barney's Pond Intake 1	500 gpm	15

Additionally, the Massad and Barney's Pond intake shall be used only during the months of October through March for snow making purposes and Barney's Pond intake shall be used for backup purposes only. During any season, the combined withdrawal from the Massad Pond Intakes Nos. 1 and 2 shall not exceed 30 million gallons. Season shall be defined as the period of time from October 1 through March 31 of the following year.

e. The docket holder may request temporary approval for an increase in the seasonal allocation from Massad and/or Barney's Ponds in the event that surface water is not available from Pocono Creek Intake No. 1 as a result of equipment failure. The request must be submitted to the Executive Director in writing and must include the amount and expected duration for the temporary increase in allocation and shall be approved by the Executive Director prior to initiating the additional withdrawal. Approval of such request will not relieve the docket holder of its responsibility to meet the minimum conservation release requirements pursuant to Condition C.II.j.

f. A stream monitoring program is required to obtain data on flow conditions in Pocono Creek. The docket holder shall continue to implement the monitoring program as submitted by the docket holder in a letter dated June 18, 2002. This program includes the following:

1. **Stream Flow and Climate Monitoring** – Pocono Creek discharge shall continue to be monitored and recorded at 15-minute intervals at the docket holder's existing gaging station located at the withdrawal site. A sufficient amount of manual depth and velocity readings shall continue to be conducted to refine the data point rating curve as necessary. Daily precipitation and temperature data shall continue be measured and recorded at the site.

2. **Reports** - All monitoring data, including records required in Conditions f. and l. herein shall be submitted to the Commission in an annual report due June 30. The docket holder is encouraged to submit the annual report electronically. The report shall be prepared by a hydrogeologist and shall assess the effects of the withdrawals on the local hydrogeologic system. This report shall include an evaluation of the monitoring data required by this docket approval and such information as deemed appropriate by the hydrogeologist or required by the Executive Director.

3. The Executive Director may modify or extend the monitoring program or temporarily suspend or modify this docket at any time if review of the hydrologic data and/or any other information indicates such action is necessary or appropriate.

g. The docket holder shall continue to pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended.

h. From April 1 through September 30, the project withdrawal shall not cause the stream flow in Pocono Creek to be less than 1.78 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that the withdrawal does not result in flow less than 1.78 cfs from passing the intake. Withdrawals shall cease entirely if the flow as measured below the intake, less the withdrawal from the intake is 1.78 cfs or less. Whenever the stream flow below the intake is less than 1.78 cfs, no withdrawal from Pocono Creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Pocono Creek as measured below the intake is at least 1.92 cfs.

i. From October 1 through March 31, the project withdrawal shall not cause the stream flow in Pocono Creek to be less than 4.2 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that the withdrawal does not result in flow less than 4.2 cfs from passing the intake. Withdrawals shall cease entirely if the flow as measured below the intake, less the withdrawal from the intake is 4.2 cfs or less. Whenever the stream flow below the intake is less than 4.2 cfs, no withdrawal from Pocono Creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Pocono Creek as measured below the intake is at least 12.2 cfs.

j. The docket holder is required to maintain a minimum flow in Coolmoor Creek downstream of the Massad Pond dam of 0.2 cfs at all times. When inflow to Massad Pond is insufficient to maintain the required release, no withdrawals from Massad Pond shall be made.

k. Within three months of the date of approval of this Docket, the docket holder shall submit an Operation Plan, subject to approval by the Executive Director of the DRBC, which shall include a means to maintain, monitor and report the Massad Pond conservation release flow.

l. All project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

m. Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

n. The docket holder shall implement to the satisfaction of the PADEP, the continuous program to encourage water conservation in all types of use within the facilities

served by this docket approval. The docket holder will report to the PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

o. No water service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

p. The docket holder shall prepare and submit a DMCP to the Commission within 6 months (March 12, 2014) of docket approval. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director.

q. The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

r. Sound practices of excavation, backfill and reseeded shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.

s. No new water service connections shall be made to premises connected to sewerage systems which are not in compliance with all applicable effluent limits contained in State permits and the *Water Quality Regulations* of the Commission.

t. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

u. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

v. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

w. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

x. If the monitoring required herein, or any other data or information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing uses of ground or surface water, or if the docket holder receives a complaint by any existing ground or surface water users within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by any ground or surface users within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. The docket holder should direct phone call notifications of potential well or surface water interference or complaints of interference to the DRBC Project Review Section at 609-883-9500, extension 216. Oral notification must always be followed up in writing directed to the Executive Director. In addition, the docket holder shall provide written notification to all potentially impacted users of wells or surface water supplies of the docket holder's responsibilities under this condition. Any ground or surface water user which is substantially adversely affected, rendered dry or otherwise diminished as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and the extent of appropriate mitigation measures, if required.

y. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

z. For the duration of any drought emergency declared by either Pennsylvania or the Commission, water service or use by the docket holder pursuant to this approval shall be subject to the prohibition of those nonessential uses specified by the Governor of Pennsylvania, the Pennsylvania Emergency Management Council, PADEP, or the Commonwealth Drought Coordinator to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

aa. The docket holder shall comply with the McMichael Creek Watershed Act 167 Plan, approved by PADEP on March 10, 2006.

bb. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the *Rules of Practice and Procedure*. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

BY THE COMMISSION

APPROVAL DATE: September 12, 2013

EXPIRATION DATE: September 12, 2023