

DELAWARE RIVER BASIN COMMISSION

MEETING OF March 11, 2020

Minutes

Commissioners Present:	Kenneth Kosinski, New York, Chair (by telephone) Bryan A. Ashby, Delaware, Vice Chair Lieutenant Colonel David C. Park, United States, Second Vice Chair Aneca Y. Atkinson, Pennsylvania Jeffrey L. Hoffman, New Jersey
DRBC Staff Participants:	Steven J. Tambini, Executive Director Kristen Bowman Kavanaugh, Deputy Executive Director Kenneth J. Warren, DRBC General Counsel Pamela M. Bush, Commission Secretary and Assistant General Counsel Elba L. Deck, Director, Finance and Administration David Kovach, Manager, Project Review Amy Shallcross, Manager, Water Resource Operations Namsoo Suk, Director, Science and Water Quality Management

The Commission met at the Washington Crossing Historic Park Visitor Center, Washington Crossing, Pennsylvania. Bryan Ashby, Program Manager, Division of Water Resources, Surface Water Section, Delaware Department of Natural Resources and Environmental Control and Alternate Commissioner for Governor John C. Carney of Delaware, presided as the Vice Chair. Mr. Kosinski, current Alternate for Governor Andrew M. Cuomo of New York and Commission Chair participated by phone. Mr. Ashby welcomed everyone, thanked the Washington Crossing Historic Park and the Pennsylvania Department of Conservation and Natural Resources for the use of the space, and noted the exits and safety procedures. The Commissioners and senior staff introduced themselves, and all stood for the Pledge of Allegiance.

Mr. Ashby explained that after all business items were completed, and as time allowed, he would ask Mr. Tambini to lead an Open Public Comment session.

Minutes. The Minutes of the Commission's regularly scheduled Business Meeting of December 11, 2019 were unanimously approved.

Announcements. Ms. Bush announced the scheduled Commission advisory committee meetings and other events listed below, and noted that all were to take place in the Goddard Conference Room at the Commission's office building in West Trenton, NJ unless another location was specified. She added that in response to the covid-19 pandemic, all meetings would be accessible by phone as well. Contact information for committee staff liaisons is available on the Commission's website, www.drbc.gov.

- *Joint meeting of DRBC's Monitoring Advisory and Coordination Committee (MACC) and Partnership for the Delaware Estuary Science and Technical Advisory Committee.* Wednesday, April 29, 2020 at an hour to be determined.
- *DRBC Water Quality Advisory Committee (WQAC).* Thursday, April 30, 2020 at 9:30 a.m.
- *DRBC Regulated Flow Advisory Committee (RFAC).* Thursday, May 14, 2020 at 10:00 a.m.
- *DRBC Water Management Advisory Committee (WMAC).* Thursday, June 18, 2020 at 10:00 a.m.
- DRBC Deputy Executive Director Kristen Bowman-Kavanagh will speak at a Green Philly event titled “Four States, One Source” at the Independent Seaport Museum on Wednesday, May 27 at Noon.
- DRBC Executive Director Steve Tambini will speak on April 15, 2020 at the Water Now Summit hosted by the Water Center of the University of Pennsylvania.

Hydrologic Conditions. Ms. Shallcross noted that although conditions overall in the Basin had been dry recently, the Basin was not heading into a drought. Highlights of her remarks are set forth below:

- *2019-20 Snowfall.* The winter of 2019-20 in the Basin was marked by a “snow drought.” Although some locations received more than 15 inches, others received no snow at all. The Basin overall saw lower than normal snowfall.
- *90-Day Precipitation.* Precipitation over a 90-day period provides a reasonable indicator of current hydrologic conditions. Because the Basin receives approximately 45 inches of precipitation annually, four inches per month or twelve inches per quarter are expected. Over the preceding quarter, the Basin received approximately 6.0 inches of rain, about half the normal amount of precipitation, with more rain in the lower basin and less rain in the upper basin.
- *Groundwater.* Groundwater across the Basin is measured by levels in 13 indicator wells. As of March 11, the well in Schuylkill County was in drought watch. The Wayne County well in the Pocono area had above-normal water levels; the Monroe County well was slowly coming down but still in the normal range; the Bucks County well was still in the normal range; and in the lower basin, the Cumberland County well was wet, in line with normal and above-normal rainfall in those areas.
- *DRBC Reservoir Storage.* The DRBC owns storage in two federally owned and operated reservoirs in Pennsylvania—Blue Marsh and Beltzville—which the Commission uses to meet a flow objective at Trenton, NJ. The Commission at times calls upon the Corps of Engineers to provide drought storage in the F.E. Walter Reservoir, which is otherwise used for flood control and recreation. Ms. Shallcross noted that levels in Blue Marsh and F.E. Walter appeared low because they were still being maintained at their winter pool levels to provide flood storage, which is needed in some years of higher snowfall. The reservoirs were at their normal levels for this time of year.

- *New York City Delaware Basin Storage.* The New York City (“NYC” or “City”) Delaware Basin reservoirs—Pepacton, Cannonsville and Neversink—are the three largest impoundments in the Basin. Their combined storage is used to define different drought stages for basin reservoir operations. The City is required to make releases from these reservoirs to meet a flow objective of 1,750 cubic feet per second (cfs) or 1,130 million gallons per day (mgd) at Montague, NJ. To ensure minimum freshwater inflows into the Delaware River Estuary, DRBC is responsible for directing releases from NYC’s storage to meet a flow objective of 3,000 cfs, equal to about 1,940 mgd, at Trenton, NJ. Combined storage as of March 11 was normal – 93.5% overall – with Neversink and Pepacton at 94% and Cannonsville at 93%. Ms. Shallcross noted that NYC reservoir storage recently was above the corresponding levels for last year, and far from trending toward the drought operation level.
- *Streamflows.* Many tributaries were experiencing below normal stream flows, but the main stem was experiencing normal flows for the most part. Ms. Shallcross noted that stream flow at Montague had been above normal for most of the previous year except in September and October; and the flow at Trenton had been above normal for most of the year as well. She said main stem flows were above normal as a result of large hydro power releases. Releases of between 610 and 830 cfs were being made each day from the Mongaup system, and releases of between 600 and 1,320 cfs were being made from Lake Wallenpaupack.
- *Salt front.* Ms. Shallcross noted that the Trenton flow objective was established to maintain freshwater flows into the Delaware River Estuary to push the saltwater from the ocean downstream. The normal range of the “salt front,” which is defined as the 250 mg/l chloride concentration, is from river mile (“RM”) 67 to RM 76, near Wilmington, Delaware. The 240 mg/l value is based on a secondary drinking water standard that was established by the U.S. Department of Public Health during the early part of the Twentieth Century. Today, it is a secondary drinking water standard. The “salt front” is normally located RM 70 in March, and on the meeting date was located at RM 69.1.
- *Outlook.* Ms. Shallcross noted that according to the Center for Climate Prediction, which projects conditions over the next three months, a higher probability existed that the Basin would experience much warmer than normal temperatures and would be wetter than normal. She noted that a wet April and May would make up for a dry March.

A Hydrologic Conditions Dashboard for the Delaware River Basin is now available on the Commission’s website. Developed by Karen Reavy and Anthony Preucil of the DRBC, the “dashboard” provides a daily snapshot of Basin hydrologic conditions. The website also provides useful related links and information about how the salt front and water storage are calculated.

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

- *F.E. Walter Dam Reevaluation Study.* On January 9, 2020, the U.S. Army Corps of Engineers conducted a public input session in White Haven, PA on its F.E. Walter Dam Reevaluation Study. As the primary manager of the Basin’s water resources, the DRBC is one of two non-Federal co-sponsors for this study, ensuring that all Basin states are represented in the process. The DRBC supports the reevaluation study. It also recognizes the value to the region of the reservoir’s existing uses and favors the protection of those uses. He noted that public input is critical to ensure the study team understands the water resource needs of Lehigh Valley residents and others. Study specifics, including how to

provide comment, can be found on the Corps' excellent web page for the project, a link to which is also provided on the DRBC's website.

- *PennEast Pipeline Project.* On January 20, 2020, the DRBC received a letter from the PennEast Pipeline Company, the purpose of which was to withdraw its application previously filed with the Commission. PennEast has indicated to the Federal Energy Regulatory Commission that it plans to proceed with a phased project, beginning with a section of its proposed line located entirely within Pennsylvania. By letter dated February 5, 2020 DRBC asked PennEast to provide information that would allow staff to determine whether PennEast's "Phase I" project is subject to DRBC review. In response, PennEast requested a meeting with staff. The DRBC staff and Commissioners will continue to determine DRBC's jurisdiction over this and all projects consistent with the authority conferred by the Delaware River Basin Compact and implementing regulations.
- *Advisory Committee on Climate Change.* Mr. Tambini thanked the public and Basin stakeholders for their response to DRBC's call for applications to sit on a new DRBC Advisory Committee on Climate Change. The Committee will have the benefit of climate expertise from all four Basin states and the Federal government. Mr. Tambini said that Committee appointments and an initial meeting would be announced in a few weeks.
- *DRBC Dashboard for Flow & Drought Management.* Mr. Tambini reiterated that a new Dashboard for Flow and Drought Management is available on the DRBC website, providing daily updates on key indicators such as reservoir volumes, the location of the salt front, stream flow, and the relationship of flow to key flow objectives. Mr. Tambini again thanked Karen Reavy and Anthony Preucil, who created the new dashboard.
- *Delaware Watershed Conservation Fund.* The Delaware River Watershed Conservation Fund was launched in 2018 to focus on conservation in four key areas: clean water, habitat, recreation, and flow management. The Fund is primarily a grant program, involving the award of sums of between \$50,000 and \$500,000. Approximately \$7.5 million may be awarded in 2020. The request for proposals is available on the website for the National Fish and Wildlife Foundation ("NFWF"). Proposals are due on April 2, 2020.
- *Coronavirus.* The DRBC has been monitoring the spread of the novel coronavirus causing covid-19 disease. Measures to protect staff and visitors are in place, and planning for operational continuity is underway. Any change to future hearings or business meetings of the Commission will be posted on the DRBC website, on social media, and via the listserv.

General Counsel's Report. Mr. Warren provided a summary of two pieces of litigation in which the DRBC is involved:

Wayne Land and Mineral Group v. DRBC. Mr. Warren reported that in the *Wayne Land* matter, which has been pending for some years in the Middle District of Pennsylvania, plaintiff WLMG seeks a declaration that the well pad and fracking activities it intends to undertake in Wayne County are not a project subject to DRBC review under Section 3.8 of the Compact. The Third Circuit held an oral argument this past December on the appeal by Pennsylvania state senators Scarnati, Baker and Yaw of the District Court's denial of their effort to intervene in the case on the side of WLMG. The court engaged actively in the argument and took the matter under advisement. Its decision is pending.

In the district court, several discovery motions were outstanding, relating to the question of whether certain documents in the case are privileged and whether a deposition that the DRBC wishes to take will go forward. In some instances, the court upheld the Commission's assertion of privilege and in other instances the court found that the plaintiff had a substantial need for the documents given the issues in the case and consequently ordered those documents to be produced, which the DRBC has done. Last week, the case was still in the stage of expert discovery. DRBC produced two expert reports, one from an environmental scientist and one from a historian. The Delaware Riverkeeper Network ("DRN"), which is an intervenor defendant in the matter, also submitted expert reports. The plaintiff produced one expert report from a petroleum geologist and later withdrew that report. The plaintiff also produced an expert report from a historian. Last week, the depositions of the two historians were taken, closing discovery in the case. Any party now has the opportunity, but not the obligation, to file a motion for summary judgment by April 6, 2020.

Gibbstown Logistics Center Dock 2. Ms. Bush reported that notices had been published earlier in March in the Federal Register, the registers of the Commonwealth of Pennsylvania and the states of New Jersey, Delaware, and New York, and on the Commission's website that commencing on April 15, 2020, the Commission will hold an adjudicatory hearing pursuant to Article 6 of DRBC's Rules of Practice and Procedure—18 Code of Federal Regulations, subpart F—on Docket D-2017-009-2 for the project known as the Gibbstown Logistics Center Dock 2. That docket was issued by the Commission on June 12, 2019 to Delaware River Partners, LLC. The Delaware Riverkeeper Network ("DRN") submitted a timely request for an adjudicatory hearing on the docket, and the Commission granted that request at its meeting of September 11, 2019. Although the hearing is limited to participation by DRN, the Commission staff, the docket holder and expert witnesses, members of the public may attend and may also submit additional written comments through April 24, 2020 via the Commission's web-based comment collection system. The hearing will run for a number of days because multiple expert witnesses must be heard and examined.

Many people have asked what happens after the hearing. Once the record has been compiled, the Hearing Officer will prepare a report of his findings and recommendations which will be served on all of the parties. The parties will have 20 days to file objections to that report. The Executive Director may also submit comments on the report along with recommendations for further action. Then the report of the Hearing Officer together with these objections and the staff's recommendations and briefs will be submitted to the Commission. The Commission may require or permit oral argument before it renders a final decision. There is no time limit on when those actions may occur, but the Commission will act as expeditiously as it can. For more information about the process and details about submitting a comment or attending the hearing, please visit the Commission's website. A great deal of information is available there.

Resolution to Adopt the Fiscal Year 2020-2022 Water Resources Program. Mr. Pindar explained that Section 13.2 of the Compact requires the Commission to annually adopt a Water Resources Program based upon the Comprehensive Plan, consisting of the projects and facilities that are proposed to be undertaken during a reasonably foreseeable period. Staff has developed a program that addresses the next three fiscal years. A public hearing on the proposed 2020-2022 Water Resources Program ("WRP" or "Program") took place on February 12, 2020, and the Commission received comments on the draft from two submitters. The Delaware Riverkeeper Network ("DRN") requested that the Program be modified to reflect the need for a full ban on hydraulic fracturing within the Basin, including in addition to a ban on hydraulic fracturing for the production of oil and gas, bans on the storage, processing, discharge, and handling of hydraulic fracturing wastewater and on the export of water from the Basin to support hydraulic fracturing. DRN further

commented that the Commission's rulemaking on high volume hydraulic fracturing initiated in 2017 was taking too long and encouraged the Commission to finalize that process. DRBC's response is that the rulemaking is ongoing, and any final action by the Commission will occur at a duly noticed public meeting at a future date. DRN also offered comments in support of the creation of the Advisory Committee on Climate Change; demanding that DRBC consider greenhouse gas emissions in evaluating projects under Section 3.8 of the Compact; and proposing that increases in greenhouse gas emissions be prohibited through the docket review process. The Commission's response is that the Comprehensive Plan, against which projects having a substantial effect on the Basin's water resources are evaluated under Section 3.8 of the Compact, is focused on water resources and does not address air emissions. Ms. Furlong commented that hydraulic fracturing should be banned from the watershed and that such a ban would enable DRBC to focus its resources on other important emerging water resource issues. Mr. Pindar advised the Commissioners that the staff proposed no changes to the WRP based upon the comments received. He recommended that the Program be approved as proposed.

Mr. Ashby requested a motion to adopt the resolution proposed by Mr. Pindar. LTC Park so moved, Mr. Hoffman seconded his motion, and without further discussion, Resolution No. 2020-1 adopting the Fiscal Year 2020-2022 Water Resources Program was approved by unanimous vote.

A RESOLUTION for the Minutes authorizing the Executive Director to enter into a contract for engineering services to inventory and evaluate the feasibility of options for additional storage to meet potential water supply and flow management needs in the Delaware River Basin. Mr. Pindar asked the Commissioners to authorize the Executive Director to enter into a contract with an engineering firm to update the Commission's knowledge of opportunities for additional water storage in the Basin. The last comprehensive evaluation of basin storage opportunities dates from the early 1960's, and development of an updated inventory of storage options for the Basin would be prudent at this time. The funding for this study would come from the Water Supply Storage Facilities Fund. The Commission issued a Request for Qualifications in July 2019, and three of the responding firms were invited to submit proposals. The Commission held a mandatory pre-bid meeting on February 26, 2020, and proposals are due by March 27. The contract would be entered into only after consultation with the Commissioners and would be issued to the most qualified bidder submitting a conforming proposal. The term of the contract would be 18 months with the option of a single extension. Mr. Pindar recommended that the resolution be approved.

Mr. Ashby requested a motion to approve the resolution as proposed. Mr. Hoffman so moved, Ms. Atkinson seconded his motion, and without further discussion the Resolution for the Minutes authorizing the Executive Director to enter into a contract for engineering services to inventory and evaluate the feasibility of options for additional storage to meet potential water supply and flow management needs in the Delaware River Basin was approved by unanimous vote.

The text of the resolution follows:

RESOLUTION FOR THE MINUTES

A RESOLUTION for the Minutes authorizing the Executive Director to enter into a contract for engineering services to inventory and evaluate the feasibility of options for additional storage to meet potential water supply and flow management needs in the Delaware River Basin.

WHEREAS, Section 3.6 of the *Delaware River Basin Compact* authorizes the Commission to:

Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses in the Basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

and

WHEREAS, the most comprehensive evaluation of storage options in the Basin was performed by the United States Army Corps of Engineers (USACE or “Corps”) at the direction of Congress in the late 1950’s, through 1961, which culminated in the Corps’ *Comprehensive Survey of the Water Resources of the Delaware River Basin* (House Document 522) (Revised, May 1961); and

WHEREAS, during the early 2000’s, the Corps in cooperation with the Commission performed a cursory evaluation of a limited number of storage options, which is described in the 2008 USACE report, *Enhancing Multi-Jurisdictional Use and Management of Water Resources for the Delaware River Basin: NY, NJ, PA and DE*; and

WHEREAS, the Commission’s *State of the Basin Report* (2019) and sections of the *Comprehensive Conservation and Management Plan for the Delaware River Estuary* (CCMP) (Partnership for the Delaware Estuary, 2019) authored by the DRBC staff both recognized potentially significant challenges to management of the Basin’s water resources posed by climate change; and

WHEREAS, ongoing work by the Commission, USACE, United States Geological Survey and others has shown the potential for changes in the seasonality and volume of streamflows, as well as the potential for sea level rise to impact the location of the salt front and the availability of storage to manage salinity in the Delaware River Estuary; and

WHEREAS, Section 2.400 of the Delaware River Basin Water Code, captioned “Design Streamflow Criteria,” provides in relevant part that “[t]he drought of record, which occurred in the period 1961-1967, shall be the basis for determination and planning of dependable Basin water supply … [and] for planning and development of facilities and programs for control of salinity in the Delaware Estuary” (sec. 2.400.1 – 2.400.2); and

WHEREAS, the Commission deems the development of a comprehensive updated inventory of potential storage options for meeting water resource objectives within the Basin to be prudent at this time, using funds available for this purpose in the Water Supply Storage Facilities Fund; and

WHEREAS, the contemplated study would not include recommendations regarding storage needs or compare storage vs. non-storage alternatives; rather, it would identify and evaluate the feasibility of storage options in the Basin. As such, it would complement ongoing investigations regarding the Francis E. Walter Dam and the Excess Release Quantity (“ERQ”) defined by the Supreme Court Decree of 1954 in the matter of *New Jersey v. New York*, 347 U.S. 995; and

WHEREAS, in connection with the contemplated study the Commission on July 11, 2019 issued a Request for Qualifications (“RFQ”) soliciting Statements of Qualifications and Interest (“SQIs”) from consulting engineering firms, to which it received three SQIs from qualified firms prior to the deadline of Friday, September 13, 2019; and

WHEREAS, on January 28, 2020 the Commission invited the three qualified firms to respond to a Request for Proposals (“RFP”) prior to March 27, 2020; and on February 26, 2020 held a mandatory pre-bid meeting for those firms interested in submitting a proposal; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Executive Director, in consultation with the Commissioners, is authorized to select and enter into a contract with the most qualified vendor that has submitted a conforming proposal and acceptable cost estimate for engineering services to inventory and evaluate options for additional storage to meet potential water supply and flow management needs in the Delaware River Basin.
2. The initial term of such contract shall be 18 months, with an option for one extension.
3. In accordance with Section 14.9 of the *Delaware River Basin Compact*, the competitive bidding provisions of that section are waived hereby because the services to be provided are of a specialized and professional nature.
4. The contract and any other applicable and appropriate costs to support this project will be funded using the Water Supply Storage Faculties Fund.
5. This Resolution shall take effect immediately.

Project Review Applications. Mr. Kovach reported that 21 draft dockets were the subjects of a duly noticed public hearing on February 12, 2020 and a written comment period that closed on February 17. The Commission received no comments on any of these. An additional docket—for the Northampton Generating Company LP (PA) Surface Water Withdrawal and Consumptive Use for Electric Generating and Cogenerating—was to have been included as item 10 of the February hearing but was withdrawn to allow additional time for review.

A public hearing on Docket No. D-1988-052-5 for the Grand Central Sanitary Landfill, Inc. (PA) (docket item 23 on the meeting Agenda) was held on November 13, 2019, but the Commission at its December 2019 meeting deferred a decision on this item. Staff has since prepared and shared with the Commissioners a response to comments submitted by the Delaware Riverkeeper Network (“DRN”) on this docket. Mr. Kovach summarized the comments and responses as follows: (1) DRN requested that effluent limitations and a requirement for monitoring and reporting on PFAS compounds be added to the docket. The staff’s and Commissioners’ view is consistent with that

offered in response to similar comments DRN submitted on dockets for Bristol Borough (approved on March 13, 2019) and Warrington Township (approved on September 11, 2019): DRBC's regulations do not currently include effluent limits for PFAS, and the staff and Commissioners have concluded that monitoring for these compounds in a piecemeal way would be sub-optimal. Any Commission measures concerning PFAS must be undertaken systematically and in a manner that complements those of DRBC's member states. (2) The DRN further requested that the docket include monitoring, reporting and treatment requirements for Radium 226 and Radium 228. Again, the DRBC does not recommend including such conditions in this docket. DRBC's regulations include no applicable provisions. Moreover, the Grand Central Sanitary Landfill Wastewater Treatment Plant ("GCSL") has an advanced treatment system that includes polishing the effluent through a double reverse osmosis ("RO") system. (3) DRN also expressed opposition to the practice of spraying RO reject water on the working face of the landfill in areas where the landfill is lined and the export of RO reject water to other facilities. In response, the staff and Commissioners are not concerned about the use of RO reject water on the working face of lined areas of the landfill because the liquid reduces dust, aids in compaction, and is all captured in the leachate collection system. Re-use of this liquid also reduces the amount that must be transported off-site. Reject water exported from the facility is sent only to facilities that PADEP has approved to accept this material. (4) Finally, DRN commented that it was unclear whether the landfill was approved to utilize RO reject water and landfill leachate for dust control on roads and for tire washing in other areas of the landfill. DRN opposes such practices. DRBC's response is that GCSL submitted to PADEP an application for a Water Quality Management permit for the reuse of permeate from the first RO process for dust control and vehicle washing activities, potentially in unlined areas of the landfill, but has since withdrawn its application. Mr. Kovach advised that staff recommended no changes to the draft docket as it appeared at the time of its publication for the November hearing.

Mr. Kovach concluded by recommending that the Commissioners approve the draft dockets comprising items 1 through 9 and 11 through 23 on the Business Meeting Agenda.

Mr. Ashby thanked Mr. Kovach and requested a motion to approve the 22 dockets identified as items 1 through 9 and 11 through 23 of the meeting agenda. LTC Park so moved, Ms. Atkinson seconded his motion, and without further discussion the draft dockets comprising items 1 through 9 and 11 through 23 of the meeting agenda were approved by unanimous vote.

Adjournment. Mr. Ashby asked the Commission and staff whether any other matters required the Commissioners' consideration that day. Hearing none, he requested a motion to adjourn the business meeting. Mr. Hoffman so moved, Ms. Atkinson and LTC Park seconded her motion, and the meeting was adjourned by unanimous vote of the Commissioners at 11:15 a.m.

Audio Recording. Audio recordings of the public hearing of February 12 and the Business Meeting of March 11, 2020 are on file with the Commission Secretary. A description of each of the applications for dockets approved during the Business Meeting of March 11, 2020 is provided as an attachment to these Minutes.

Open Public Comment. After the business meeting adjourned, Mr. Tambini held an Open Public Comment session for off-the-record comment by stakeholders on water resource issues affecting the Basin.

Pamela M. Bush

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 11, 2020

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. Descriptions of the projects (based on the applications received, which may vary from final projects) for which the Commission issued approvals on December 11 are presented below.

A. Renewals with No Substantive Changes (Items 1 through 9 and 11 through 23).

1. Upper Southampton Auth., D-1965-023 CP-3. An application to renew the approval of an existing groundwater withdrawal with a decrease in allocation from 13.53 mgm to 11.8 mgm to supply the applicant's public water supply distribution system from existing Wells Nos. 3 and 7. The project wells are completed in the Stockton Formation. The project is located in the Commission's designated Southeastern GWPA in the Southampton Creek Watershed, Southampton Township, Bucks County, Pennsylvania.

2. [Brodhead Creek Regional Authority, D-1986-011 CP-5.](#) An application to renew approval of the existing 4.5 million gallon per day (mgd) Brodhead Creek Regional Authority (BCRA) WWTP and its discharge. The WWTP will continue to discharge to McMichael Creek at River Mile 213.0 - 4.0 - 0.2 (Delaware River - Brodhead Creek - McMichael Creek) and is located in the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in the Borough of Stroudsburg, Monroe County, Pennsylvania.
3. [Easton Area Joint Sewer Authority, D-1987-010 CP-3.](#) An application to renew approval of the applicant's existing 10.0 mgd EAJSA WWTP and its discharge and to approve a service area expansion for the WWTP. The WWTP facilities will not be modified, and the WWT will continue to discharge treated effluent directly to Water Quality Zone 1E of the Delaware River at River Mile 182.8, which is located in the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in the City of Easton, Northampton County, Pennsylvania. The service area expansion consists of adding the Borough of Stockertown, whose sewage is currently being conveyed to the Stockertown WWTP for treatment.
4. [Fleetwood Borough Authority, D-1987-054 CP-6.](#) An application to renew the approval of the existing 0.7 mgd Fleetwood Borough Authority WWTP and its discharge. The WWTP will continue to discharge to Willow Creek at River Mile 92.47 - 86.7 - 0.6 - 6.4 (Delaware River - Schuylkill River - Maiden Creek - Willow Creek), via Outfall No. 001, in Richmond Township, Berks County, Pennsylvania.
5. [Spring Township, D-1988-077 CP-4.](#) An application to renew the approval of the docket holder's existing 2.0 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Cacoosing Creek at River Mile 92.47 - 76.8 - 4.0 - 2.0 (Delaware River - Schuylkill River - Tulpehocken Creek - Cacoosing Creek) via Outfall No. 001, in Spring Township, Berks County, Pennsylvania.
6. [Wyomissing Valley Joint Municipal Authority, D-1991-009 CP-6.](#) An application to renew the approval of the docket holder's existing 4.0 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Wyomissing Creek at River Mile 92.47 - 75.4 - 0.22 (Delaware River - Schuylkill River - Wyomissing Creek), via Outfall No. 001, in Reading City, Berks County, Pennsylvania.
7. [Exelon, D-1992-066 CP-3.](#) An application to renew approval of the applicant's existing 3.045 mgd Eddystone Generating Station IWTP and its discharges of treated industrial wastewater effluent and up to 832.2 mgd of non-contact cooling water (NCCW). Treated industrial effluent will continue to comingle with NCCW prior to discharge to Delaware River Water Quality Zone 4 at River Mile 84.8, in the Borough of Eddystone, Delaware County, Pennsylvania.
8. [Borough of Bally, D-1994-044 CP-4.](#) An application to renew the approval of the existing 0.5 mgd Borough of Bally WWTP and its discharge. The WWTP will continue to discharge treated effluent to West Branch Perkiomen Creek at River Mile 92.47 - 32.08 - 18.65 - 5.20 - 3.55 (Delaware River - Schuylkill River - Perkiomen Creek - Green Lane Reservoir - West Branch Perkiomen Creek) via Outfalls Nos. 001 and 002, in Washington Township, Berks County, Pennsylvania.

9. Aqua Pennsylvania, Inc., D-1995-057 CP-3. An application to renew the approval to withdraw up to 46.2 million gallons per month of groundwater from Wells 1, 2, 3, 4, 5 and 6 for public water supply. The wells are completed in the Catskill Formation in the West Branch Lackawaxen and Lackawaxen River Watersheds in Honesdale Borough and Texas Township, Wayne County, Pennsylvania within the drainage area of the section of the main stem Delaware River, known as the as the Upper Delaware, which the Commission has classified as Special Protection Waters.
10. Northampton Generating Company LP. [Feb. 2020 hearing deferred. No action in March.]
11. Lehigh County Authority, D-1999-011 CP-3. An application to renew the approval for the docket holder's existing 0.06 mgd Heidelberg Heights WWTP and its discharge. The WWTP will continue to discharge treated effluent to an Unnamed Tributary (UNT) to Mill Creek at River Mile 183.7 - 16.0 - 18.8 - 3.3 - (Delaware River - Lehigh River - Jordan Creek - Mill Creek - UNT Mill Creek) via Outfall No. 001, in Heidelberg Township, Lehigh County, Pennsylvania, located within the drainage area to the Lower Delaware River SPW.
12. Bucks County Water and Sewer Authority, D-1999-013 CP-4. An application to renew the approval of the existing 1.6 mgd Harvey Avenue WWTP and its related discharge. The WWTP will continue to discharge treated effluent to Cooks Run at River Mile 115.6 - 38.1 - 2.6 (Delaware River - Neshaminy Creek - Cooks Run) via Outfall No. 001, in Doylestown Borough, Bucks County, Pennsylvania.
13. Dan Schantz Farm & Greenhouses, D-1999-014 -3. An application to renew the approval of an existing groundwater withdrawal of up to 3.57 mgm for nursey stock irrigation from existing Wells Nos. W-1, W-3, W-4, W-5, W-6, W-7 and W-8. The project wells are completed in the Brunswick Formation. The requested allocation is not an increase from the previous allocation. The wells are located in the Commission's designated GWPA in the Hosensack Creek Watershed in Lower Miford Township, Lehigh County, Pennsylvania.
14. Lehigh County Authority, D-2001-020 CP-6. An application to renew the approval of the applicant's Central Lehigh Division System allocation of 264.78 million gallons per month (mgm) of groundwater from 18 existing wells and an interconnection with the City of Allentown for public water supply. The wells are completed in the Allentown, Jacksonburg and Beekmantown formations in the Little Lehigh Creek - Lehigh River, Liebert Creek - Little Lehigh Creek and Spring Creek watersheds in Lower Macungie, Upper Macungie and South Whitehall Townships, Lehigh County, Pennsylvania 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.
15. Exelon, D-2010-036 CP-3. An application to renew the approval of an existing average discharge of 42.6 mgd of non-contact cooling water and process water from the Fairless Hills Generating Station (FHGS) via Outfall No. 001. Outfall No. 001 discharges to Delaware River Water Quality Zone 2 at River Mile 126.85. The FHGS is located within the U.S. Steel complex in Falls Township, Bucks County, Pennsylvania.
16. Upper Makefield Township, D-2016-006 CP-2. An application to renew the approval of the existing 0.0202 mgd Dutchess Farms WWTP and its discharge. The WWTP will continue to discharge treated effluent to land via a constructed wetland and discharge to an Unnamed Tributary (UNT) to Jericho Creek at River Mile 143.2 - 3.7 - 0.85 (Delaware

River - Jericho Creek - UNT Jericho Creek) via Outfall No. 001, within the drainage area to the portion of the Delaware River classified as Lower Delaware SPW, in Upper Makefield Township, Bucks County, Pennsylvania.

17. Bristol Township, D-1990-098 CP-2. An application to approve an upgrade and expansion to the docket holder's existing Croyden WWTP, consisting of constructing an additional secondary clarifier, constructing 2 additional chlorine contact tanks, and replacing the existing grit removal system with a new grit removal system. As a result of the upgrade, the WWTP's annual average design flow will be expanded from 2.25 mgd to 3.75 mgd, and the maximum monthly average design flow will be expanded from 3.0 mgd to 5.0 mgd. The WWTP will continue to discharge directly to Delaware River Water Quality Zone 2 at River Mile 116.9 in Bristol Township, Bucks County, Pennsylvania.
18. Plumstead Township, D-1997-033 CP-4. An application to renew the approval of an existing groundwater withdrawal with an increase in total system allocation from 23.02 mgm to 35.1 mgm from eleven (11) existing wells. Wells LG-6, CR-2, CR-3 MT-1 and MT-2 are completed in the mixed zone of the Brunswick and Lockatong Formations. Wells NB-2 and NB-3 are completed in the Lockatong Formation. Wells DR-1, SH-5, SH-6 and SH-7 are completed in the Stockton Formation. The project is located in the Commission's designated Ground Water Protected Area (GWPA) in the Deep Run, North Branch Neshaminy Creek, Pine Run, Geddes Run and Cabin Run Watersheds in Plumstead Township, Bucks County, Pennsylvania. The public water supply system is also located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters.
19. Artesian Water Company, D-2001-034 CP-2. An application to consolidate Docket Nos. D-2001-034 CP, D-2000-047 CP and D-2007-042 CP-1 into a single docket which makes up the docket holder's Church Creek Regional System. The application will also include Jonathans Landing Well No. 1, Hunters Ridge Well No. 1, Riverside Well No. 1R, Church Creek Well No. 3 and Riverview Well No. 1 into the DRBC Comprehensive Plan. The applicant also requests to renew the approval to withdraw up to 55.79 mgm of groundwater from ten groundwater sources. The project's existing groundwater withdrawals are approved by the Delaware Department of Natural Resources and Environmental Control (DNREC) and will continue to be regulated by DNREC in accordance with the Administrative Agreement (AA) between the Commission and the State of Delaware. The wells are located in the Lower Saint Jones River, Spring Creek and Murderkill River Watersheds in Kent County, Delaware.
20. Joe Jurgielewicz & Son, Ltd., D-2017-003 -2. An application to approve new Well No. PW-18 for inclusion into the applicant's agricultural duck farm and processing facility groundwater system and to renew a groundwater withdrawal of up to 5.425 mgm from 17 existing wells (Nos. PW-1 through PW-17) and new Well No. PW-18. The project wells are completed in Ordovician sedimentary rock units of shale and graywacke of the Hamburg Sequence. The project is located in the Mill Creek Watershed in Tilden Township, Berks County, Pennsylvania.
21. NP New Castle, LLC, D-2019-004 -1. An application to approve the applicant's existing 0.05 mgd Schuylkill Mall WWTP and its discharge. The WWTP will continue to discharge treated effluent to an unnamed tributary (UNT) to Mud Run at River Mile 92.5 - 123.0 - 5.7

- 0.9 - 0.2 (Delaware River - Schuylkill River - Mill Creek - Mud Run - UNT Mud Run) in New Castle Township, Schuylkill County, Pennsylvania.
 - 22. Pocono Mountains Industries, Inc., D-2019-008 -1. An application to approve the applicant's existing 0.014 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Red Run at River Mile 183.7 - 83.5 - 11.4 - 6.4 - 3.6 (Delaware River -Lehigh River - Tobyhanna Creek - Upper Tunkhannock Creek - Red Run) and is located in the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Coolbaugh Township, Monroe County, Pennsylvania.
 - 23. Grand Central Sanitary Landfill, Inc. (PA), Leachate Treatment Plant, D-1988-052-5, (*Public Hearing held 11/13/2019*). An application to renew the approval of an existing Industrial Wastewater Treatment Plant (IWTP) to treat leachate generated at a sanitary landfill and discharge into surface waters of the Basin. The discharge has varied between 20,000 GPD and 40000 gpd. Max is 60000 mgd. The project is located in Plainfield Township, Northampton County, PA
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