

DOCKET NO. D-2025-001 CP-1

DELAWARE RIVER BASIN COMMISSION

**Pennsylvania Department of Environmental Protection
Bureau of Abandoned Mine Reclamation
Duncott North Refuse Bank Fire Extinguishment Project
Mine Pool Discharge and Surface Water Withdrawal
Cass, New Castle and Norwegian Townships, Schuylkill County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on January 10, 2025, amended January 24, 2025, for approval of an allocation of surface water and review of a surface water withdrawal project (Application). An emergency approval for this project was issued by the DRBC's Executive Director in accordance with Section 2.3.9.B. of the Commission's *Administrative Manual-Rules of Practice and Procedure* on January 29, 2025.

The Application was reviewed for inclusion of this project in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. A public hearing on this project was held by the DRBC on May 7, 2025.

A. DESCRIPTION

- 1. Purpose.** The purpose of this project is to withdraw up to 45.0 million gallons per month (mgm) of surface water from West Branch Schuylkill River and Pine Knot mine pool drainage discharge to extinguish the Duncott North Refuse Bank Fire.
- 2. Location.** The Duncott North Refuse Bank site is located in the West Branch Schuylkill River Watershed in Cass, New Castle and Norwegian Townships, Schuylkill County, Pennsylvania. The proposed West Branch Schuylkill River and Pine Knot Mine Discharge withdrawal locations are located in West Branch Schuylkill River Watershed in New Castle Township and Cass Township, respectively. West Branch Schuylkill River at withdrawal location is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting Cold Water Fishes and Migratory Fishes (CWF, MF).

Specific location information has been withheld for security reasons.

3. **Area Served.** Water withdrawals will be used solely for the purpose of abating the Duncott North Refuse Bank Fire and quenching excavated material prior to it being transported to a disposal area. The area served is outlined on a map submitted as part of the application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in Section C. DECISION of this docket.

4. **Design Criteria.** The project will withdraw approximately 1,000 gallons per minute (gpm) from the West Branch Schuylkill River and 500 gpm from the Pine Knot Discharge to extinguish the Mine Refuse bank fire and quench excavated material. The water will be pumped from the West Branch Schuylkill River through pipes and hoses to a manifold and then distributed to each fire location via additional pipes and hoses to water cannons. Peak pumping rates would occur during business hours. The pumping rate would be reduced when workers are not on site to manage the water cannons but may continue to keep the lines from freezing and to quench hot areas overnight. When needed, the Pine Knot mine discharge intake will be used to fill water trucks that will haul water approximately 0.5 miles to the fire locations. It is expected that the project can be completed within several months but may take longer depending on the conditions encountered. The allocation of 45 mgm should be sufficient to meet the water demands of the Bureau of Abandoned Mine Reclamation (BAMR).

5. **Facilities.** The proposed surface water intakes have the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (GPM)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
West Branch Schuylkill River	West Branch Schuylkill River	1,000	4.63	February 2025
Pine Knot Discharge	Pine Knot Mine Discharge	500	N/A	February 2025

The intakes are metered.

The withdrawn water will not be treated prior to use.

The West Branch Schuylkill River intake location is located in the 100-year floodplain.

6. **Other.** With the exception of water lost to evaporation in suppressing the fire, Water used for the project will runoff into existing pits, enter the underground mine pool, and discharge via mine discharges back into the West Branch of the Schuylkill River.

7. **Relationship to the Comprehensive Plan.** The project will be included in the Comprehensive Plan upon approval of this docket.

B. FINDINGS

1. Emergency Certificate

On January 29, 2025, an emergency certificate was granted by the Executive Director of the DRBC in accordance with Section 2.3.9.B. of the Commission's *Administrative Manual-Rules of Practice and Procedure* to the PADEP BAMR for permission to withdrawal up to 45 mgm of groundwater from the West Branch Schuylkill River and Pine Knot Mine Discharge for firefighting efforts at the Duncott North Refuse Bank Fire in Cass, New Castle and Norwegian Townships, Schuylkill County, Pennsylvania. The provisions and conditions of the emergency certificate issued to the PADEP BAMR that remain active include:

- The PADEP-BAMR shall meter and record all withdrawals from each of the West Branch Schuylkill River and Pine Knot Mine Discharge.
- The maximum pumping rate (based on a 24-hour average) at the West Branch Schuylkill River intake and the Pine Knot mine discharge intake shall not exceed 1,000 gpm and 500 gpm, respectively.
- During any month, the combined withdrawals from West Branch Schuylkill River and the Pine Knot Discharge shall not exceed 45 million gallons.
- A continuous instream flow of at least 4.63 cfs shall be allowed to pass the West Branch Schuylkill River Intake. When the stream flow is less than 4.63 cfs, no water may be withdrawn from the intake, and the entire natural flow shall be allowed to pass.
- Withdrawals shall only be used for Duncott North Refuse Bank firefighting purposes.
- The surface water intakes and operational records shall always be available for inspection by the DRBC.
- Sound practices of excavation, backfill and reseedling shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.
- 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.

2. Drought Management

During declared drought emergencies PADEP BAMR will work with their contractor to reduce withdrawals to the absolute amount necessary to continue to abate the mine fire. While a portion of the water used to extinguish the mine fire will be lost to evaporation and consumptively used, a portion of the withdrawal will infiltrate and enter the underground mine pool, and discharge via mine discharges back into the West Branch of the Schuylkill River.

3. Passby Flow

The docket holder's temporary West Branch Schuylkill River surface water withdrawal is subject to pass-by flow requirements. The estimated contributing drainage area to West Branch Schuylkill River above the surface water intake is approximately 15.9 square miles. The estimated seven-day low flow with a recurrence interval of 10 years (Q_{7-10}) at the point of withdrawal is 4.63 cubic feet per second (cfs) or 3.0 mgd. The project withdrawal must not cause the stream flow in West Branch Schuylkill River to be less than 4.63 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that a minimum of 4.63 cfs passes by the intake. Withdrawals shall cease entirely if the 24-hour average flow as measured below the intake, less the withdrawal, is 4.63 cfs or less. Whenever the stream flow below the intake is less than 4.63 cfs, no withdrawal from West Branch Schuylkill River shall be made and the entire natural stream flow must be allowed to pass. If curtailed, withdrawals shall not resume until flow in West Branch Schuylkill River as measured below the intake is above 6.86 cfs for at least a 24-hour period. This rate is equal to the passby flow of 4.63 plus the peak daily withdrawal rate of 2.23 cfs (see C. DECISION condition C.9. in this docket).

4. Other Findings

The DRBC estimates that the project withdrawals, used for the purpose of fire abatement, result in a consumptive use of 10 percent of the total water use. The DRBC definition of consumptive use is defined in *Basin Regulations-Water Supply Charges* 18 C.F.R. 420.1(d).

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

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

Effective on the approval date for Docket No. D-2025-001 CP-1 below, the project and the appurtenant facilities as described in Section A.4. (Design Criteria) and A.5. (Facilities) shall be added to the Comprehensive Plan. The project and appurtenant facilities as described in in Section A.4. (Design Criteria) and A.5. (Facilities) are approved subject to the following conditions, pursuant to Section 3.8 of the *Compact*:

Monitoring and Reporting

1. The docket holder shall 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).
2. The project withdrawals shall be metered by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted for surface water withdrawals by the PADEP if maintenance of the 5 percent performance is not technically feasible or economically practicable. Meters or other methods of measurement shall be subject to approval and inspection by the PADEP as to the type, method, installation, maintenance, calibration, reading and accuracy. 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.

Other Conditions

3. During any month, the combined withdrawal from all sources shall not exceed 45 million gallons. No intake shall be pumped above the maximum rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)
West Branch Schuylkill River	1,000	45
Pine Knot Mine Discharge	500	22

* Based on a 24-Hour Average

4. In accordance with 18 C.F.R. 401.8. of the Commission's *Rules of Practice and Procedure (RPP)*, if at any future time the Project is changed materially from the Project as described in this docket, it will be deemed to constitute a new and different project for the purposes of Article 11 of the Delaware River Basin *Compact* and will require Commission amendment of the Comprehensive Plan. In accordance with the same section of the *RPP*, whenever a change to the Project is made, the sponsor must advise the Executive Director, who will determine whether the change is deemed materially for purposes of this provision.
5. This approval shall expire on the expiration date set forth below unless prior thereto the docket holder has applied to the Commission to renew or extend this approval.
6. The docket holder is responsible for timely submittal to the DRBC of a docket renewal application on the appropriate application form including the appropriate docket application filing fee (see 18 C.F.R. 401.43) at least 6 months in advance of the docket expiration date set forth below. The docket holder will be subject to late filed renewal surcharges in the event of untimely submittal of its renewal application whether DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. If the docket holder has not applied to renew the docket or the DRBC is unable to reissue the docket before the expiration date below, the terms and conditions of the current docket will remain fully effective and enforceable pending the renewal of the docket.
7. The project withdrawal must not cause the average daily streamflow to be less than 4.63 mgd at the West Branch Schuylkill River intake. Whenever the average daily streamflow, less the withdrawal, below the intake is less than this amount, no withdrawal shall be made and the entire natural streamflow must be allowed to pass. If curtailed, withdrawals shall not resume until flow in West Branch Schuylkill River as measured below the intake is above 6.86 cfs for at least a 24-hour period.
8. The surface water intakes and operational records shall be available at all times for inspection by the DRBC.
9. The surface water intakes shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.
10. The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.
11. Sound practices of excavation, backfill and reseeding shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.
12. 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.

13. 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*.

14. This approval is transferable by request to the DRBC Executive Director provided that the project purpose and area served approved by the Commission in this docket will not be materially altered because of the change in project ownership. The request shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 CFR 401.43).

15. The docket holder shall request a name change of the entity to which this approval is issued if the name of the entity to which this approval is issued changes its name. The request for name change shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 C.F.R. 401.43).

16. 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 to ensure the proper control, use and management of the water resources of the Basin.

17. If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the docket holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the docket holder shall provide written notice to all potentially affected water users of the docket holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the docket holder's project withdrawal shall be repaired, replaced or mitigated at the docket holder's expense.** The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the docket holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement, or mitigation.

18. 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.

19. 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.

20. 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: June 11, 2025

EXPIRATION DATE: December 31, 2025