

**DELAWARE RIVER BASIN COMMISSION**

**MEETING OF DECEMBER 14, 2016**

**Minutes**

Commissioners Present: Brigadier General William H. Graham, United States, Chair  
Lieutenant Colonel Michael A. Bliss, United States  
Kelly J. Heffner, Pennsylvania, Vice Chair  
Jeffrey L. Hoffman, New Jersey, Second Vice Chair  
Angus Eaton, New York  
Kara S. Coats, Delaware

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

The Commission met at the Washington Crossing Historic Park Visitor Center in Pennsylvania on December 14, 2016.

Minutes. The Minutes for the Commission' regularly scheduled Business Meeting of September 14, 2016 and its Special Meeting of November 23, 2016 both were approved unanimously.

Announcements. Ms. Bush announced the following meetings and events:

- *DRBC Water Quality Advisory Committee (WQAC).* Thursday, February 9, 2017 at 10:00 a.m. in the Goddard Conference Room of the Commission's West Trenton, New Jersey office building. Draft agenda and additional details are available on the DRBC website or by contacting DRBC staff member John Yagecic at extension 271.
- *DRBC Water Management Advisory Committee (WMAC).* Thursday, February 23, 2017 at 10:00 a.m. in the Goddard Conference Room of the DRBC office building in West Trenton, New Jersey. Additional information is available on the DRBC website or by contacting staff member Jessica Sanchez at extension 202.
- *DRBC Flood Advisory Committee Meeting (FAC).* Wednesday, March 1, 2017 at 10:00 a.m. in the Goddard Conference Room of the DRBC office building in West Trenton, New

Jersey. Additional information is available on the DRBC website or by contacting staff member Amy Shallcross at extension 232.

Hydrologic Conditions. Ms. Shallcross reported on hydrologic conditions in the Basin:

In response to persistent dry conditions DRBC issued a Drought Management special permit on November 23, 2016, following a duly noticed public hearing on November 9. The permit allows for coordinated operation of regional reservoirs, out-of-basin diversions, and Delaware River flow objectives to conserve stored water. Additionally, the entire basin was placed under “Drought Watch” operations.

All but six Delaware River Basin (DRB) counties are now under either a state-declared drought watch or drought warning:

- In New Jersey, NJDEP placed Hunterdon, Mercer, Monmouth, Morris, Ocean, Sussex and Warren counties under a drought warning. Burlington, Camden, Gloucester, and Salem counties remain under a drought watch. Only three New Jersey counties remain in normal status—Atlantic, Cumberland and Cape May.
- In Pennsylvania, PADEP placed Carbon, Monroe, Lehigh and Northampton counties under a drought warning. All other basin counties in Pennsylvania are under a drought watch.
- A drought watch is in effect for all DRB counties in New York.
- No drought declarations are in effect for the state of Delaware.

The observed precipitation for the portion of the Basin above Montague, New Jersey<sup>1</sup> for the period January 1 through December 12, 2016 was 36.66 inches, or 6.56 inches below normal. The observed precipitation for the Basin above Trenton<sup>2</sup> for the same period was 37.80 inches, or 7.90 inches below normal and for the Basin above Wilmington, Delaware for this period, 39.31 inches or 1.64 inches below normal.

The average observed streamflow of the Delaware River at Montague, New Jersey in November 2016 was 1,988 cubic feet per second (cfs), or 43.6 percent of the long-term average for the month. The average observed streamflow of the Delaware River at Trenton, New Jersey for the same period was 3,127 cfs, or 31.2 percent of the long-term average for the month.

For December 1-12, the average observed streamflow at Montague was 4,185 cfs, or 82.9 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 7,931 cfs, or 61.4 percent of the long-term average for the month.

In the Lower Basin DRBC began directing releases from Beltzville Reservoir on September 5 and Blue Marsh Reservoir on September 9 to meet the Trenton Flow Objective. Releases from Merrill Creek Reservoir for consumptive use replacement began on November 28.

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<sup>1</sup> Average observed precipitation is based on the weighted average of nine stations.

<sup>2</sup> Average observed participation is based on the weighted average of 99 stations.

As of December 13, Beltzville Reservoir contained 9.32 billion gallons (bg) usable, or 69.1 percent of usable storage; Blue Marsh contained 4.47 bg usable, or 100.9 percent of winter pool usable storage; and Merrill Creek contained 13.58 bg usable, or 86.6 percent of usable storage.

In the Upper Basin, as of December 13, Pepacton Reservoir contained 74.3 bg usable or 53.0 percent of usable storage. Cannonsville contained 26.5 bg usable, or 27.7 percent of usable storage. Neversink contained 18.7 bg usable or 53.6 percent of usable storage. The total New York City Delaware Basin reservoir storage was 119.5 bg usable or 44.1 percent of usable storage.

During the month of November 2016, the location of the seven-day average of the 250-parts-per million (ppm) isochlor, also known as the “salt front,” fluctuated between River Miles (RM) 87 and 90. The normal location of the salt front during November is RM 70, which is eight miles downstream of the Delaware-Pennsylvania state line.

Precipitation in recent weeks increased inflows into the estuary resulting in rapid downstream movement of the salt front. On December 1, the salt front was located at RM 90 which is two miles downstream of the mouth of the Schuylkill River. As of December 12, the salt front was located at RM 80, which is 11 miles upstream of the normal location of the salt front during December.

*[Editor’s note: At this meeting, the Executive Director’s and General Counsel’s reports were delivered outside of the usual sequence, following the Commission’s consideration and action on resolutions concerning drought operations and regulatory program fees.]*

Resolution to Preserve and Protect Water Supplies in the Basin During a Period of Persistent Dry Conditions. Mr. Tambini recounted that after a duly noticed public hearing on November 9, the Commission convened a special meeting on November 23, 2016 to adopt Resolution No. 2016-7, providing for a coordinated response to dry conditions in the basin. Pursuant to that action, the proposed resolution would temporarily place water stored in Lake Wallenpaupack and the Mongaup reservoir system under a special permit designed to preserve and protect basin water supplies during a period of persistent dry conditions. In accordance with the special permit, Brookfield Renewable and Eagle Creek Hydropower, LLC will operate Lake Wallenpaupack and the Mongaup system reservoirs, respectively, consistent with drought management plans set forth in the *Delaware River Basin Water Code* to complement drought management operation of the New York City reservoirs as and when triggered. The two hydropower companies will coordinate their operations through the Executive Director or his designee and with the Office of the Delaware River Master. Drought operations, once commenced, will continue until the drought management special permit under Resolution No. 2016-7 terminates, or prior to such termination, the Commission provides otherwise.

General Graham requested a motion to adopt the resolution to preserve and protect water supplies in the basin during a period of persistent dry conditions. Mr. Eaton so moved, Ms. Heffner seconded his motion and Resolution No. 2016-8 was adopted by unanimous vote.

Resolution to Amend the Rules of Practice and Procedure Concerning Regulatory Program Fees and the Basin Regulations – Water Supply Charges Concerning Rates. In May of 2016 the Commission proposed a comprehensive restructuring of its regulatory fees program, including an

automatic annual indexed inflation adjustment for most fees, and at the same time proposed an annual inflation adjustment for its water supply charges. The changes to the regulatory program fees are designed to provide a more predictable and sustainable source of revenue and close an annual gap in funding needed to support DRBC's project review program. The changes to the water supply charges regulations, which support the DRBC Water Supply Storage Facilities Fund, would keep these charges in pace with inflation. The Commission conducted an extensive public process as part of this rules change, including publication of a notice of proposed rulemaking, an accompanying set of FAQs and a press release on DRBC's website in May of 2016. An email alert containing a link to the notice was simultaneously sent to all parties subscribed to DRBC's listserv. DRBC's notice of proposed rulemaking subsequently appeared in the *Federal Register* and the four basin state registers. Immediately following the Commission's June 15, 2016 Business Meeting DRBC staff held a public information meeting on the proposed rules, which included a staff presentation and informal questions and answers. DRBC updated its FAQs following the meeting, to address questions raised by participants. DRBC listserv subscribers were notified of this update. A duly noticed public hearing on the proposed rule changes took place on July 27, 2016 at the Commission's office building in West Trenton, and the opportunity for written comment remained open until August 12, 2016. Staff developed a detailed comment and response document and made changes to the proposed rules in response to comments received.

Mr. Tambini explained that the proposed resolution would amend the *Administrative Manual – Rules of Practice and Procedure* to establish DRBC's regulatory program fees in accordance with schedules contained in the revised draft rule. The resolution would simultaneously amend the *Administrative Manual – Basin Regulations – Water Supply Charges* to provide for automatic annual adjustment of the water charging rates for inflation. The resolution also provides for the Commissioners to adopt the staff memorandum dated October 17, 2016, captioned "DRBC Response to Comments and Staff Recommendations" and makes the rule changes part of the Commission's comprehensive plan.

Mr. Tambini said the proposed fees re-structuring was intended to help provide adequate, stable and reliable revenues to cover the costs of the Commission's regulatory program activities. The fees include a docket application fee, which is similar to the docket application fee currently in effect, but with key differences. First, no DRBC application fee will be assessed for any project in which a signatory party serves as lead under the One Permit Program. Second, under the proposed changes, the application fee for water allocations is based upon the amount of the approved allocation rather than on construction costs or a flat fee. The proposed fee for most wastewater discharge projects is a flat fee. The Commission will continue to have the ability to apply an alternative review fee in instances where the costs of the review are expected to involve extraordinary time and expense. The proposal also includes an annual monitoring and coordination fee, which was not part of previous Commission fee schedules. The annual monitoring and coordination fee ranges between \$300 a year and \$1,000 a year depending upon the volume of the water allocation or the approved discharge capacity. An adjustment to most fees will occur on July 1 of every year beginning July 1, 2017, commensurate with any increase in the April 12-month consumer price index (CPI) for the Philadelphia region for that year.

In response to comments received, language was added to provide that for any withdrawal or diversion covered in part by a certificate of entitlement issued to a pre-Compact water user, the annual monitoring and coordination fee will be based upon the allocated amount, if any, in excess

of the quantity specified in the entitlement. If the entitled amount is equal to or greater than the allocation, no annual monitoring and coordination fee will apply.

Mr. Tambini asked the Commission to approve the resolution.

General Graham requested a motion to approve the proposed amendments to the *Rules of Practice and Procedure* concerning regulatory program fees and to the *Basin Regulations – Water Supply Charges* concerning rates. Mr. Hoffman so moved, Ms. Heffner seconded his motion and Resolution No. 2016-9 was adopted by unanimous vote.

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

- *Drought Resolution.* During periods of low flow, the Lake Wallenpaupack and Mongaup system hydropower reservoirs are subject to drought operating conditions set forth in the Commission's *Water Code*. The hydrologic conditions that signal initiation of these drought operations have not yet occurred; however, Resolution 2016-8 ensures that if dry conditions persist, the hydropower facilities will be operated in the manner contemplated by the *Water Code* to help balance the need to preserve storage with the need to maintain streamflow in the main stem Delaware River.
- *Regulatory Program Fees Resolution.* With respect to Resolution No. 2016-9 concerning fees, Mr. Tambini directed the public to DRBC's website, where the approved resolution, a set of updated FAQs and other information can be found.
- *Format Change for Public Hearings and Business Meetings.* Approximately one year ago, the Commission initiated on a trial basis a meeting schedule in which the quarterly public hearing takes place approximately four to five weeks prior to the quarterly business meeting. Mr. Tambini said that in his view, separating the public hearing from the meeting has worked well in that it gives the staff and Commissioners more time to evaluate and address comments before the Commission considers action. He noted that for the most part during the year-long trial, the written comment period closed a day after the public hearing, although the Commission extended the written comment period on a case-by-case basis. Over the course of the year, DRBC received feedback from the regulated community and concerned citizens that as a general practice, the Commission should give entities more time for written submissions after the close of the public hearing. In response to these requests, the Commission will in the future accept written comments for at least three business days after the public hearing has closed. In most instances, the public hearing takes place on Wednesday, and comments will be accepted through close of business on the following Monday.

The Open Public Comment schedule will also be revised. During the trial period, an opportunity for Open Public Comment was offered after each public hearing and each business meeting – for a total of eight opportunities each year, or twice as many as had historically been offered when the hearing and business meeting took place on the same day. The Commission will return to providing four Open Public Comment opportunities each year, following each of the quarterly business meetings.

Finally, for purposes of economy and convenience, just one of the Commission's quarterly meetings will be conducted each year at a location other than Washington Crossing. Previously, the possibility of two meetings at locations farther afield had been proposed.

- *Delaware River Basin Conservation Act.* On behalf of the Commission, Mr. Tambini thanked and congratulated the basin's congressional delegates and the Coalition for the Delaware River Watershed for securing passage of the Delaware River Basin Conservation Act. He noted that passage of the Act was the culmination of a long effort, and he thanked all who had supported this effort.

General Counsel's Report. Mr. Warren reported that the Commission has one lawsuit pending in federal court – the case against it brought by Wayne Land and Mineral Group, LLC. He noted that four motions were pending with respect to that lawsuit. Two of these have been fully briefed but there has been no decision by the court. These are: the motion of three Pennsylvania senators to intervene on behalf of the plaintiff; the motion of several entities, among them the Northern Wayne Property Owners Alliance and the Honesdale Lackawaxen Shippers Association, to appear as *amici* on behalf of the plaintiff, including to both file a brief and participate in oral argument; and the motion of the Wayne County Commissioners and Wayne Economic Development Corporation to appear as *amici* on behalf of plaintiff, including to file briefs and participate in oral argument. Mr. Warren noted parenthetically that the latter movant was listed as the Wayne Economic Development *Council* (emphasis added), but DRBC has established that the entity is in fact the Wayne Economic Development *Corporation*. With respect to the two motions to appear as *amicus curiae* on behalf of plaintiff, Mr. Warren said it was unclear whether the movants wished to participate in the pending DRBC motion to dismiss or only in adjudication of the merits. DRBC has treated the motions as requests to appear in both contexts and has opposed them on that basis.

The final outstanding motion is the motion of Damascus Citizens for Sustainability to intervene on behalf of defendant. DRBC's brief in that matter is due December 15. Mr. Warren noted that the only other scheduled event in the lawsuit is a plenary hearing and oral argument on DRBC's motion to dismiss, scheduled for January 24 at the federal courthouse in Scranton.

Project Review Applications. The Commission held a duly noticed public hearing on November 9, 2016 on 20 draft dockets for water-related projects, during which the Commission received oral comment and written comment on hearing items 11 – Sunoco Partners Marketing & Terminals, LP (D-1967-240-2) – and 19 – Birdsboro Power, LLC (D-2016-004-1). DRBC received written submissions on hearing items 18 – Crossroads Ventures, LLC (D-2016-003 CP-1) and 20 – Brookside Country Club (D-2016-005-1). Mr. Kovach summarized and responded for the record to the comments received on each of the four projects.

The comments on hearing item 20, a draft docket for the **Brookside Country Club (D-2016-005-1)**, were submitted by individuals with private wells near the site (and incidentally, after the comment period had closed). Most of the area around the site is served by public water. However, the private well owners in the vicinity are concerned that their wells could be adversely affected by the country club's proposed groundwater withdrawal. In response to the well owners' concerns, DRBC staff through consultation with the applicant and its engineer, arranged for the country club to explore adding one or more of the privately-owned wells to a monitoring well network that is

required by DRBC as a condition of the applicant's withdrawal. At the time of the business meeting, the applicant was exploring this opportunity with private well owners.

Oral testimony and written comments on item 11, the draft docket for **Sunoco Partners Marketing & Terminals, LP (D-1967-240-2)**, were submitted by Corinne Wolf on behalf of the Clean Air Council. Ms. Wolf asked about the context for DRBC's review. Specifically, she asked whether the facility's allocation had been reduced because the applicant requested a smaller allocation or because the Delaware River Basin had been in a drought. Mr. Kovach said that in accordance with DRBC regulations and practice, DRBC considered the estimated 10-year demand for all uses associated with the project, including two energy and steam generating facilities, and required the applicant to develop a drought management contingency plan for the facility. Sunoco Partners provided such a plan, which includes replacement by Merrill Creek Reservoir of water consumptively used for power generation during drought.

The Catskill Heritage Alliance submitted comments on hearing item 18, the draft docket for **Crossroads Ventures, LLC (D-2016-003 CP1)**, a groundwater withdrawal project. This project involves the exportation of most of the groundwater withdrawn for the project to a wastewater treatment plant in the Hudson River Basin. The project also entails the importation of water for snowmaking. In performing DRBC's review, DRBC's project review staff conferred with staff of the New York State Department of Environmental Conservation (NYSDEC) and considered the environmental impact statement (EIS) that was required to be developed for the project under the state environmental quality review act (SEQRA). The SEQRA process took place over a period of approximately ten years. Mr. Kovach noted that most of the comments submitted to DRBC had also been submitted for purposes of developing the EIS, and in staff's opinion were adequately addressed during that process.

Among the comments on item 18 that were directed more specifically to the draft docket, one expressed concern that the applicant's pumping tests, which had been performed in 2007 and 2008 during development of the EIS, were outdated. DRBC staff is of the view that the age of the pumping tests is not a sufficient reason to reject their validity. Another comment asserted that too few wells were monitored to determine the project's hydrologic impacts. DRBC staff concluded that the pumping tests, which were performed in accordance with NYSDEC requirements, also satisfied DRBC requirements, and that ample monitoring was performed to determine any adverse impacts to the hydrogeologic system in the area. Another comment objected that the pumping tests were improperly conducted. Again, after reviewing the pumping test procedures and results and the EIS, and after conferring with NYSDEC geologist James Garry, DRBC's geologists concluded that the pumping tests were properly conducted and demonstrated that there is adequate water for the project. According to Mr. Kovach, that the draft docket includes DRBC's standard condition relating to interference should reassure private well owners. The requires the docket holder to investigate any claims of adverse impacts.

The last substantive issue raised by the Catskill Heritage Alliance concerned the exportation of water from the Delaware River Basin. The Crossroads Ventures project involves the withdrawal of groundwater from wells located within the basin; however, wastewater from the project is conveyed to the Pine Hill Wastewater Treatment Plant for treatment and discharge outside the basin. The net export will be reduced by importations of water from outside the Delaware River Basin for snowmaking. Mr. Kovach said that based on a water budget analysis and a hydrogeologic

analysis, DRBC staff determined that sufficient water is available to ensure that the project will not have an adverse impact on the water resources of the Delaware River Basin.

Mr. Kovach noted that the Catskill Heritage Alliance also objected to the docket on grounds that a legal challenge to the state's approvals was still pending, but that has not been confirmed. He said that because DRBC's review performed in accordance with the Compact and implementing regulations demonstrated that the project would not impair or conflict with the comprehensive plan, the Commission should approve it. Mr. Kovach added that staff had prepared a comment and response document addressing the comments received on the Crossroads Ventures project.

The Commission received a number of comments on hearing item 19, the draft docket for Birdsboro Power, LLC (D-2016-004-1). Spokespersons from the Delaware Riverkeeper Network (DRN) and Environment New Jersey provided oral testimony at the Commission's public hearing on November 9, 2016. Prior to the close of the comment period on November 18, written comments were submitted by DRN and approximately 76 individuals who submitted form letters generated through DRN's website. One concerned party sent an individualized comment *via* email, and an additional four form letters were received after the close of the comment period.

The comments related to: whether a docket could be issued for the project without first or simultaneously amending the docket for the Reading Area Water Authority (RAWA), which will supply water to the project through a new interconnection; concern about water line expansions in the Reading area as a result of RAWA's transmission line improvements and extensions; whether RAWA can serve the Birdsboro Power project without jeopardizing its commitments to current water users; whether Birdsboro Power or RAWA on its behalf should be subject to the requirement placed on power producers that rely on water from free-flowing streams or effluent discharges in the basin to replace water used consumptively during periods of low flow or drought conditions; the adequacy of the conservation release requirement established by RAWA's current docket; whether Birdsboro Power, LLC should have explored alternatives to fresh water for cooling, including treated effluent; concern that the project could displace floodwater and exacerbate flooding in the vicinity of the project site; concern about the placement of monopoles at intervals in the floodplain and floodway as part of the project, and about inaccuracies in the draft docket relating to the number of monopoles to be raised in the floodway and flood fringe; whether DRBC could properly issue a docket to Birdsboro Power, LLC before it completed its review of the 14-mile pipeline to be constructed by DTE Mid-Stream Appalachia for transporting natural gas to fuel the facility; whether the project would adversely affect air quality; concerns about the type of fill to be used on the project site to elevate the facility for flood protection; concerns about land disturbance and erosion and sediment controls; whether the methodologies and assumptions employed in water availability studies for the project were technically sound; and whether the facility's discharge to the Birdsboro Municipal Authority Wastewater Treatment Plant would result in excessive levels of total dissolved solids (TDS) in the latter's discharge.

DRBC's responses to each of these concerns are set forth in a comment and response document that is a public record available from the Commission on request. Mr. Kovach noted that four modifications to the draft docket were recommended in response to the comments received. The first two were factual corrections: First, the draft docket stated that 0.04 acres of forested wetlands in the right-of-way of the electric transmission line from the facility would be converted to palustrine emergent wetlands. This was corrected to add palustrine scrub shrub wetlands. The



second change was to correct the project description to note that twelve (12) monopoles would be located in the floodplain of the Schuylkill River and seven (7) would be located in the floodway. The third change was to include the finding, inadvertently omitted in the draft docket, that the project does not impair or conflict with the *Comprehensive Plan*. The fourth, was to amend section C.I.a. of the docket to provide that the Commission's approval "is subject to all conditions, requirements and limitations imposed by PADEP and USACE, unless they are less stringent than the Commission's" and further, to require that "upon application to the permitting agency, the docket holder shall provide to the DRBC the Chapter 105 Water Obstruction and Encroachment Permit Application and all supporting materials."

In conclusion, Mr. Kovach reported that after considering each of the concerns raised by commenters, staff concluded that no substantive changes to the draft docket for Birdsboro Power, LLC were appropriate. He recommended that the Commission approve the dockets comprising hearing items 1 through 20.

General Graham thanked Mr. Kovach for his comprehensive review and requested a motion to approve the 20 dockets. Ms. Heffner so moved, and Mr. Eaton seconded her motion. BG Graham explained that as a representative of the federal government, he was abstaining from voting on hearing item number 19, Birdsboro Power, LLC (D-2016-004-1), in view of the project's pending application with the USACE. Consequently, all of the 20 items except for hearing item 19 were approved by unanimous vote. Hearing item 19, the docket for Birdsboro Power, LLC, was approved by a vote of four in favor and one abstention.

Audio Recording. An audio recording of the public hearing of November 9, 2016 is on file with the Commission Secretary. A description of each of the applications for the dockets approved during the Business Meeting of December 14, 2016 is provided as an attachment to these Minutes.

Adjournment. General Graham asked if there were any other matters that the Commissioners or staff had to consider. Hearing none, he requested a motion to close the meeting before beginning the Open Public Comment session. Mr. Eaton so moved, Ms. Heffner seconded his motion, and the business meeting was adjourned by unanimous vote at approximately 12:00 noon.

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

*/s/ Pamela M. Bush*

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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 DECEMBER 14, 2016

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

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

The projects are customarily considered in three categories – *Category A* – project renewals with no substantive changes; *Category B* – project renewals with substantive changes; and *Category C* – projects not previously reviewed by the Commission. All of the projects approved by the Commission on December 14, 2016 were subjects of a duly noticed public hearing on November 9, 2016. Descriptions of the projects (based on the applications received, which may vary from final projects) for which the Commission issued approvals on December 14 are listed below, in the order in which the dockets were presented at the November 9 public hearing.

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

1. Horsehead Corporation, D-1967-196-3. An application to renew the approval of the discharges from the existing Horsehead Palmerton East Plant. The facility will continue to discharge non-contact cooling water and stormwater generated by the Electric Arc Furnace

dust processing and metal powder production facilities from Outfall No. 004 (up to 0.15 million gallons per day (mgd)) and Outfall No. 005 (up to 0.432 mgd). The facility will continue to discharge up to 0.15 mgd from Outfall No. 004 and up to 0.432 mgd from Outfall No. 005 to Aquashicola Creek, which is a tributary of the Lehigh River, at River Mile 183.6 - 36.3 - 1.0 (Delaware River - Lehigh River - Aquashicola Creek). The facility is located within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Palmerton Borough, Carbon County, Pennsylvania.

2. Easton Area Joint Sewer Authority, D-1987-010 CP-2. An application to renew the approval of the applicant's existing 10.0 mgd wastewater treatment plant (WWTP) and its discharge. The WWTP will continue to discharge treated effluent to Water Quality Zone 1E of the Delaware River at River Mile 182.8, within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in the City of Easton, Northampton County, Pennsylvania.
3. Horsham Water & Sewer Authority, D-1988-017 CP-3. An application to renew the approval of the existing 2.79 mgd Horsham Water & Sewer Authority Park Creek WWTP and its discharge. Effluent limits from the Commission and the Pennsylvania Department of Environmental Protection (PADEP) are based upon an average flow of 2.25 mgd. The WWTP will continue to discharge treated effluent to Park Creek at River Mile 115.63 - 24.1 - 9.0 - 1.1 (Delaware River - Neshaminy Creek - Little Neshaminy Creek - Park Creek) in Horsham Township, Montgomery County, Pennsylvania.
4. Alburtis Borough, D-1991-042 CP-4. An application to renew the approval of an existing groundwater withdrawal of up to 11.87 million gallons per month (mgm) to supply the applicant's public water supply distribution system from existing Wells Nos. 1, 2, 3A and 4. The requested allocation is not an increase from the previous allocation. Project Wells Nos. 1 and 2 are completed in Hornblende Gneiss and Wells Nos. 3A and 4 are completed in the Leithsville Formation. The project is located in the Swabia Creek Watershed in the Borough of Alburtis and Lower Macungie Township, 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.
5. Upper Moreland-Hatboro Joint Sewer Authority, D-1998-048 CP-3. An application to renew the approval of the applicant's existing WWTP and its discharge. The WWTP will remain at a hydraulic capacity of 9.08 mgd and continue to treat and discharge an annual average flow of 7.189 mgd to Pennypack Creek at River Mile 109.8 - 17.8 (Delaware River - Pennypack Creek) in Upper Moreland Township, Montgomery County, Pennsylvania.
6. Upper Bern Township, D-2001-002 CP-4. An application to renew the approval of the applicant's existing 0.155 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Wolf Creek, above the Blue Marsh Reservoir, at River Mile 92.47 - 76.8 - 15.6 - 5.1 - 2.3 (Delaware River - Schuylkill River - Tulpehocken Creek - Northkill Creek - Wolf Creek) in Upper Bern Township, Berks County, Pennsylvania.

7. Pennsylvania American Water Company, D-2006-033 CP-3. An application to renew the approval of an existing groundwater withdrawal of up to 19.19 mgm to supply the applicant's public water supply distribution system from existing Wells Nos. PW-1, PW-2 and PW-3. Wells Nos. PW-1 and PW-2 are completed in the Manhating Formation and Well No. PW-3 is completed in the Trimmers Rock Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Brodhead Creek Watershed in Stroud Township, Monroe 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.
8. Franconia Sewer Authority, D-2007-041 CP-2. An application to renew the approval of the applicant's existing 0.15 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Skippack Creek, which is a tributary of Perkiomen Creek, which is a tributary of the Schuylkill River, at River Mile 92.5 - 32.3 - 3.0 - 12.5 (Delaware River - Schuylkill River - Perkiomen Creek - Skippack Creek) via Outfall No. 001 in Franconia Township, Montgomery County, Pennsylvania.
9. City of Lewes Board of Public Works, D-2012-011 CP-2. An application to renew the approval of the applicant's existing 1.5 mgd Lewes City WWTP and its discharge. Treated effluent will continue to be discharged to the Lewes Rehoboth Canal, a tidal tributary of Water Quality Zone 6 of the Delaware River, at River Mile 0.82 - 2.0 (Delaware River - Lewes Rehoboth Canal) via Outfall No. 001, in the City of Lewes, Sussex County, Delaware.
10. Blue Mountain View Estates, LLC, D-2012-014 CP-2. An application to renew the approval of the applicant's existing 0.026 mgd WWTP and its discharge. The WWTP will continue to discharge to the Aquashicola Creek at River Mile 183.66 - 36.32 - 8.25 (Delaware River - Lehigh River - Aquashicola Creek), 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, in Lower Towamensing Township, Carbon County, Pennsylvania.

*B. Renewals with Substantive Changes (hearing items 11 through 16).*

11. Sunoco Partners Marketing & Terminals, LP, D-1967-240-2. An application to approve a withdrawal of up to 590.0 mgm of surface water from existing Intake No. RW-7 for industrial cooling, industrial processes, maintenance, training and testing of the fire suppression system and miscellaneous uses including leak and pressure testing of process equipment, dust suppression during construction activities, external cooling for overheated equipment/processes and wash down of process areas at the docket holder's Marcus Hook Industrial Complex (MHIC) facility. Up to 372 mgm of this allocation is diverted to and used by two separate energy and steam generating facilities owned by NextEra Energy located on the MHIC. The docket also approves the surface water withdrawals from existing fire water Intake No. RW-5 and new fire water Intake No. Dock-2B, which are used only for emergency fire flow purposes. The allocation of surface water approved by this docket is a reduction from the previously approved withdrawal of approximately 2,178 mgm (48,800 gpm) in Docket No. D-67-240. Intake No. RW-7 will continue to withdraw surface water from the Delaware River in New Castle County, Delaware. Fire water Intakes Nos. RW-5

and Dock 2B are located on the Delaware River in Marcus Hook Borough, Delaware County, Pennsylvania.

12. Kent County Levy Court, D-1977-087 CP-4. An application to approve an upgrade and expansion to the existing Kent County Levy Court WWTP. The WWTP upgrade consists of the addition of two new secondary clarifiers and tertiary filtration, along with improvements to the existing influent screening, secondary clarifiers, blowers of the existing biological nutrient removal (BNR) treatment system, ultraviolet light disinfection system, and appurtenant structures and facilities. The upgrade also includes an expansion from 16.3 mgd to 20 mgd. The WWTP will continue to discharge to "The Gut," a tidal tributary of the Murderkill River, which is a tidal tributary of Delaware River Water Quality Zone 6, at River Mile 23.0 - 6.4 - 0.8 (Delaware River - Murderkill River - The Gut), near Frederica Town, Kent County, Delaware.
13. Upper Montgomery Joint Authority, D-1987-028 CP-2. An application to upgrade the applicant's existing 2.0 mgd WWTP. The upgrade consists of replacing the existing trickling filter/solid contact treatment system with a new biological nutrient removal (BNR) treatment system, and appurtenant improvements, including expanding the hydraulic design capacity of the WWTP from 2.5 mgd to 2.75 mgd. The WWTP will remain at an average annual design flow of 2.0 mgd and will continue to discharge to the Green Lane Reservoir on Perkiomen Creek, which is a tributary of the Schuylkill River, at River Mile 92.5 - 32.3 - 25.0 - 0.2 (Delaware River - Schuylkill River - Perkiomen Creek - Green Lane Reservoir) in Upper Hanover Township, Montgomery County, Pennsylvania.
14. Aqua Pennsylvania, Inc., D-2001-015 CP-6. An application to approve new Well No. SWC-14 for inclusion into the applicant's public water supply distribution system and to renew the approval of an existing groundwater withdrawal of up to 39.33 mgm from one new and 12 existing wells. All the wells are completed in the Brunswick Formation, except for Well No. CP-9, which is completed in the Lockatong Formation. The wells are located in the Commission's designated Ground Water Protected Area (GWPA) in the Swamp Creek, Minister Creek, Scioto Creek and Zacharias Creek watersheds in New Hanover, Douglass, Upper Fredrick and Worcester townships, Montgomery County, Pennsylvania.
15. Lower Perkiomen Valley Regional Sewer Authority, D-2001-042 CP-5. An application to rerate the maximum monthly average daily flow of the applicant's existing Oaks WWTP from 20 mgd to 26 mgd. The WWTP average daily flow will remain at 14.25 mgd. No modifications to the existing WWTP are proposed. The existing WWTP has adequate capacity to accommodate the rerate to 26 mgd. The WWTP will continue to discharge treated effluent directly to the Schuylkill River at River Mile 92.47 - 32.4 (Delaware River - Schuylkill River) in Perkiomen Township, Montgomery County, Pennsylvania.
16. EPR Concord II, LP, D-2006-035-2. An application to approve a groundwater withdrawal of up to 6.2 mgm from existing Wells Nos. 1, 2 and PW-4 and surface water withdrawals of up to 3.1 mgm from Kiamesha Creek and 9.3 mgm from Irrigation Pond No. 1 for irrigation of the applicant's existing golf course that is being completely reconstructed. Additionally, groundwater from the same groundwater sources, but primarily Well No. 1, will be transferred to storage ponds from which up to 15 million gallons seasonally will be used for

snowmaking purposes at an adjacent proposed tubing area and learn-to-ski hill. The project wells are completed in the Lower Walton Formation in the Sheldrake Stream Watershed, within the drainage area of the section of the main stem Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in the Town of Thompson, Sullivan County, New York.

17. Camp Moshava, D-2015-014-1. An application to approve the applicant's existing 0.036 mgd WWTP and its discharge. Treated effluent will continue to be discharged to an unnamed tributary (UNT) of Indian Orchard Brook, which is a tributary of the Lackawaxen River, at River Mile 277.7 - 23.1 - 1.8 - 0.5 (Delaware River - Lackawaxen River - Indian Orchard Brook - UNT), within the drainage area of the section of the main stem Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters, in Berlin Township, Wayne County, Pennsylvania.

*C. Projects Not Previously Reviewed by the Commission (hearing items 18, 19 and 20).*

18. Crossroads Ventures, LLC, D-2016-003 CP-1. An application to approve a withdrawal of up to 8.122 mgm of groundwater from Wells Nos. K2, K3, K4 and Q1 for public water supply of a new resort and the exportation of up to 8.122 mgm of water from the Delaware River Basin (DRB) to the Middle Hudson River Basin (MHRB). The water withdrawn for public supply from sources in the Delaware River Basin will be used within the basin, and after use will be conveyed out-of-basin to an existing WWTP located in the MHRB. The docket also approves the importation of water for snowmaking on proposed ski trails and lift areas in the DRB from a surface water source located in the MHRB. The project is located in the Town of Middletown, Delaware County and the Town of Shandaken, Ulster County, New York. All but the easternmost portion of the property is located within the DRB. The wells are completed in the Lower Walton Formation in the Vly Creek-Bushkill Watershed, which is part of the East Branch Delaware River Watershed within the drainage area of the section of the main stem Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters, in the Town of Middletown and Village of Fleischmanns, Delaware County, New York.
19. Birdsboro Power, LLC, D-2016-004-1. An application to approve a new 485 megawatt (MW) electric generating plant and its associated consumptive use of water. The facility will purchase up to 95.17 mgm of cooling water from the Reading Area Water Authority (RAWA). The estimated average and maximum consumptive use for the facility is 2.35 mgd and 2.72 mgd, respectively. The docket also constitutes a special use permit in accordance with Section 6.3.4 of the Commission's Flood Plain Regulations. The facility will be located in the Borough of Birdsboro, Berks County, Pennsylvania.
20. Brookside Country Club, D-2016-005-1. An application to approve a groundwater withdrawal of up to 8.208 mgm to irrigate the docket holder's golf course from new Well No. 2 completed in the Brunswick Formation. Well No. 2 is replacing the old golf course Well No. 1, which has experienced declining yield. The golf course has been supplementing groundwater use with water purchased from the Borough of Pottstown. The project is located in the Commission's designated GWPA in the Sprogels Run Watershed in the Borough of Pottstown and Lower Pottsgrove Township, Montgomery County, Pennsylvania.