

A RESOLUTION authorizing the Executive Director in connection with the control of certain toxic substances in the Delaware Estuary to extend the Commission's agreements with Axys Analytical Services Ltd. for analysis of ambient water, wastewater and sediment samples (July 2010 agreement) and analysis of fish tissue samples (September 2006 agreement).

WHEREAS, at the request of the States of Delaware, New Jersey and Pennsylvania ("the Estuary States") and Regions II and III of the U.S. Environmental Protection Agency (EPA), the Commission developed Stage 1 TMDLs for polychlorinated biphenyls (PCBs) for Zones 2 through 5 of the Delaware Estuary and subsequently developed total maximum daily loads (TMDLs) for Zone 6 (Delaware Bay); and

WHEREAS, the EPA established the Stage 1 TMDLs for Zones 2 through 5 on December 15, 2003 and the Stage 1 TMDLs for Zone 6 on December 14, 2006; and

WHEREAS, the Commission is currently working with the Estuary States and Regions II and III of the EPA on Stage II TMDLs for Zones 2 through 6; and

WHEREAS, studies to be conducted involve, among other activities, the specialized analysis of fish tissue and ambient water samples for PCBs and other toxic pollutants in order to meet Stage 2 TMDL data needs and further investigate physical and chemical processes and sources; and

WHEREAS, EPA notified the Commission in July 2011 that it has approved the Commission's calendar year 2011 grant pursuant to Section 106 of the Clean Water Act, including approximately \$90,000 for analysis of fish tissue samples collected in New Jersey tributaries to the Delaware Estuary and an estimated \$59,000 for the analysis of ambient water samples from the tidal portion of the mainstem Delaware River to support the development of the Stage 2 TMDLs; and

WHEREAS, the Commission's Section 106 grant application for calendar year 2012 requests that funds be allocated to analyze fish tissue samples collected in the tidal and non-tidal mainstem portions of the Delaware River at an estimated cost of approximately \$73,000; and

WHEREAS, Axys Analytical Services Ltd. ("Axys") was the laboratory used extensively during development of the Stage 1 and 2 TMDLs for PCBs to analyze ambient water, sediment, tributary and trackdown samples, and Axys has performed work of consistent high quality in the analysis of ambient water, wastewater, sediment and fish tissue; and

WHEREAS, Axys developed new approaches to processing and analyzing samples for PCBs and worked with stakeholders, Commission staff, and other laboratories on the project-specific QA/QC procedures for Method 1668A that are currently used by all entities required to perform sampling in connection with the PCB TMDLs; and

WHEREAS, Axys was selected as the most qualified bidder in response to requests for proposals issued by the Commission in June of 2010 and January of 2006 respectively, for (a) the analysis of ambient water, wastewater and sediment samples and (b) the analysis of fish tissue samples; and

WHEREAS, continued use of Axys will provide continuity and comparability in the analysis of samples for toxic pollutants, characterization of PCB sources, and the physical and chemical processes affecting transport and fate of PCBs in the estuary; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Executive Director is authorized to extend through December 31, 2012 the Commission's July 26, 2010 purchase order and September 12, 2006 agreement with Axys Analytical Services Ltd. for analytical and interpretative services in connection with studies of ambient water, wastewater, sediment and fish tissue to support the development and allocation of Stage 2 TMDLs for PCBs and other toxic pollutants in the Delaware Estuary.
2. The incremental amount of the agreement for these services shall not exceed \$225,000.
3. Because the services to be provided are of a specialized nature, the competitive bidding requirements of Section 14.9 of the Compact are waived, in accordance with subsection (5) of that section.

This Resolution shall take effect immediately.

/s/ Philip M. Secrist

LTC Philip M. Secrist, Chairman *pro tem*

/s/ Pamela M. Bush

Pamela M. Bush, Esquire, Commission Secretary

ADOPTED: March 7, 2012