

RESOLUTION NO. 2015 – 3

A RESOLUTION delegating limited authority to the Executive Director to enter into settlement agreements and to waive late fees for good cause shown.

WHEREAS, under Section 14.1(b)(4) of the Delaware River Basin Compact, Pub. L. 87-328; 75 Statutes at Large 688, (“the Compact”) the Commissioners shall “[a]ppoint the principal officers of the Commission and delegate to and allocate among them administrative functions, powers, and duties;” and

WHEREAS, Section 14.5 of the Compact provides for the appointment of an Executive Director by the Commission; and

WHEREAS, Section 3-2 of the Commission’s Administrative Manual – By-Laws, Management and Personnel (“By-Laws”) sets forth the duties of the Executive Director as the chief executive officer of the Commission; and

WHEREAS, the By-Laws provide that the Executive Director shall, among other duties “effectuate and enforce all policies and resolutions adopted by the Commission;” and

WHEREAS, the Commission hereby finds that to improve the efficiency and timeliness of the settlement of alleged violations of the Commission’s Compact, rules, regulations or orders pursuant to Article 7 (Penalties and Settlements in Lieu of Penalties) of the DRBC *Administrative Manual – Rules of Practice and Procedure* (18 CFR Part 401, Subpart G) (“the RPP”), the authority to settle such matters involving sums below a specified amount should be delegated to the Executive Director; and

WHEREAS, the Commission further finds that to promote the efficient and timely resolution of requests for the waiver or reduction of late fees imposed in accordance with a duly adopted DRBC fee schedule, the authority to grant such requests for good cause shown or to deny them should likewise be delegated to the Executive Director; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. The Commission hereby delegates to the Executive Director its authority defined by Section 2.7.8 of the RPP (18 CFR § 401.98) to approve settlement agreements with alleged violators where the sum to be paid is less than or equal to \$10,000. Prior to entering into a settlement agreement in accordance with this delegation, the Executive Director shall consult with the Commissioner representing the state in which the regulated activity is located.
2. The Commission hereby further delegates to the Executive Director the authority to grant for good cause shown or to deny any request for waiver or reduction of a late fee imposed in accordance with a duly adopted DRBC fee schedule; provided, however, that the denial of such a request by the Executive Director shall be

appealable to the Commission in accordance with Section 2.6.1 C. of the RPP, 18 CFR § 401.81(c).

3. All settlement agreements involving payments of more than \$10,000 shall be subject to the consideration and action of the Commission at a public meeting.
4. The Commission also adopts the Guidelines appended to this Resolution regarding use of this delegated authority.
5. This resolution shall be effective immediately.

/s/ Angus Eaton

Angus Eaton, Chairman *pro tem*

/s/ Pamela M. Bush

Pamela M. Bush, J.D., M.R.P., Commission Secretary

ADOPTED: March 11, 2015

GUIDELINES FOR USE OF SETTLEMENT AUTHORITY

In accordance with Resolution No. 2015-#, to provide for more timely and efficient resolution of alleged violations of the DRBC's Compact, rules, regulations or orders, the Commission has delegated to the Executive Director the authorities (1) defined by Section 2.7.8 of the *Administrative Manual – Rules of Practice and Procedure*, 18 CFR § 401.98 (“the RPP”), to enter into settlement agreements with alleged violators where the settlement amount is less than or equal to \$10,000; and (2) to grant for good cause shown or deny requests for the reduction or waiver of a late fee imposed in accordance with a duly adopted DRBC fee schedule.

Limits on Delegation, Reporting

- The delegation of authority does not extend to settlement amounts greater than \$10,000.
- Prior to entering a settlement agreement under this delegation, the Executive Director shall consult with the host state Commissioner.
- At each regularly scheduled public meeting of the Commission, the Executive Director shall report all settlements that have been executed under this delegation since the Commission's previous public meeting.
- All settlement agreements between the Commission and alleged violators shall constitute public records, and as such, shall be available for inspection in accordance with Article 8 of the RPP, relating to public access to records and information.
- Nothing in Resolution No. 2015 - # is meant to limit the Executive Director's authority to issue an order in accordance with any duly adopted DRBC rule or regulation.

Effect of Guidelines on Existing Regulations and Policy

- The Executive Director shall consider the factors set forth at Section 2.7.6 A. of the RPP, 18 C.F.R. § 401.96(a) and the Penalty Matrix adopted by DRBC Resolution No. 2009-13 in settling matters under this delegation.
- The dollar value limitation on this delegation of settlement authority should not be a factor considered by the Executive Director in determining the appropriate amount of any settlement.