

DOCKET NO. D-2015-004 CP-1

DELAWARE RIVER BASIN COMMISSION

Located in Special Protection Waters

**Pennsylvania Department of Transportation
Pond Eddy Bridge Replacement and Crossing of Recreation Project Area
Shohola Township, Pike County, Pennsylvania
& Lumberland Township, Sullivan County, New York**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Skelly and Loy, Inc. Engineering-Environmental Consultants on behalf of the Pennsylvania Department of Transportation (PennDOT or docket holder) in consultation with the New York State Department of Transportation (NYSDOT) and the Federal Highway Administration (FHA) on February 26, 2015 (Application), for review of the replacement of the Pond Eddy Bridge and related roadway improvements. The docket holder obtained the Section 106 historic resource approval with the executed Memorandum of Agreement in December 2012 from the National Historic Preservation (NHP); Section 4(f) approval in February 2012 from the FHA; National Environmental Policy Act approval in July 2013 from the United States Environmental Protection Agency (US EPA); Pennsylvania Act 120 – Categorical Exclusion Evaluation approval in July 2013 from PennDOT; and New York State Environmental Quality Review Act approval in September 2013 from the New York State Department of Environmental Conservation (NYSDEC). Several other State and Federal Permits are necessary for this bridge replacement project. The Permits include a Joint Federal Section 404 and Chapter 105 from the United States Army Corps of Engineers (USACE) and Pennsylvania Department of Environmental Protection (PADEP); an Article 15/401 WQ from the NYSDEC; and a Scenic and Recreational River – Section 7 Authorization from the National Park Service (NPS). Applications for each of these Permits have been submitted and review and approval are pending.

The Application was reviewed for inclusion of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact*. The Pike County Planning Commission and Sullivan County Division of Planning and Environmental Management have been notified of pending action. A public hearing on this project was held by the DRBC on September 15, 2015.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to approve the replacement of the existing Pond Eddy Bridge span crossing the Upper Delaware Wild and Scenic Recreational River, a recreation project area designated in the Commission's Comprehensive Plan. The project will also be included in the Commission's Comprehensive Plan. The docket also constitutes a special use permit in accordance with Section 6.3.4 of the Commission's *Flood Plain Regulations (FPR)*.

2. **Location.** The existing Pond Eddy Bridge spans the Delaware River at River Mile 265.5 between the Town of Lumberland, Sullivan County, New York and Shohola Township, Pike County, Pennsylvania. The proposed replacement bridge will be located approximately 55 feet upstream of the existing bridge.

3. **Area Served.** The existing bridge and the proposed replacement bridge will continue to serve as a way for motor vehicles and pedestrians to travel from the community of Pond Eddy located in Shohola Township, Pike County, Pennsylvania to Lumberland Township, Sullivan County, New York. For the purpose of defining the Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. **Physical Features.**

a. **Existing Facilities Description.** The existing 1-lane Pond Eddy Bridge, which is 502 feet in length and 14 feet in width, was constructed in 1904 and 1905 to handle a maximum load of eighteen (18) tons and carries Pennsylvania State Route (S.R.) 1011 over the Delaware River between Shohola Township, Pike County, Pennsylvania and Lumberland Township, Sullivan County, New York. Bridge inspections have rated the bridge as structurally deficient and functionally obsolete and the bridge currently has a weight limit posting of seven (7) tons. The bridge has one (1) pier located in the Delaware River and two (2) abutments, one on either bank. The existing bridge, pier and abutments will be removed following the installation of the replacement bridge.

The existing Pond Eddy Bridge roadway is located above the 100-year flood elevation and the in-stream pier support is designed to withstand flooding events of this magnitude.

b. **Proposed Facilities Description.** The proposed replacement bridge will be located approximately 55 feet upstream of the existing bridge and will be constructed 506 feet in length and 28.75 feet in width. The 2-span composite steel truss replacement bridge will include a pedestrian sidewalk and will accommodate one lane of vehicle traffic. The docket holder will also perform roadway improvements to tie the bridge into the existing roadways on either side of the bridge and stormwater improvements in the project area. These improvements will be performed in cooperation with the FHA and NYSDOT. The construction of the replacement bridge project is expected to begin summer of 2016 and end in the year 2019 and will result in a bridge that can accommodate a normal load of 40 tons and up to 102 tons for special permit loads with 8 axles. The proposed replacement bridge will continue to carry S.R. 1011 over the Delaware River between Shohola Township, Pike County, Pennsylvania and Lumberland

Township, Sullivan County, New York and will have one (1) support pier located in the Delaware River and two (2) abutments, one on either bank. Cofferdams will be used to ensure that footings for the pier and each abutment are constructed under dry conditions.

The proposed replacement bridge roadway will be located above the 100-year flood elevation. The in-stream pier support will be designed to withstand flooding events of this magnitude. It is noted that the roadways on either side of the bridge will be inundated during a 100-year or greater flood event.

c. **Other.** The PADEP and NYSDEC will regulate stormwater discharges for the project area.

d. **Cost.** The overall cost of this project is estimated to be \$17,448,750. This cost includes the replacement of the Pond Eddy Bridge, demolition of the existing bridge, and all roadway, sidewalk, and stormwater improvement work.

e. **Relationship to the Comprehensive Plan.** The project will be added to the Comprehensive Plan upon approval of this docket. Once construction of the replacement bridge and the demolition of the existing bridge are complete the docket holder shall inform the Commission's Project Review Section in accordance with DECISION Condition II.f.

B. FINDINGS

The Project

The purpose of this docket is to approve the replacement of the existing Pond Eddy Bridge span crossing the Upper Delaware Wild and Scenic Recreational River, a recreation project area designated in the Commission's Comprehensive Plan. The project will also be included in the Commission's Comprehensive Plan. The docket also constitutes a special use permit in accordance with Section 6.3.4 of the Commission's *FPR*.

The replacement bridge is required to meet current FHA, PennDOT, and NYSDOT criteria. Redundancies will be integrated into the bridge design to ensure that this replacement bridge lasts at least 75 years.

Phase 1 will consist of constructing the replacement bridge 55 feet upstream of the existing bridge. The in-stream pier and two abutments will be constructed using cofferdams to ensure that footings for the pier and each abutment are constructed under dry conditions. Phase 1 will also include connecting the existing roadways into the replacement bridge. Phase 2 will consist of demolishing the existing bridge, its pier, and two abutments, as well as performing roadwork improvements associated with the existing bridge.

Upon completion of construction and demolition the docket holder is required to inform the Commission's Project Review Section that the project is complete (See DECISION Condition II.f.).

Comprehensive Plan Recreational Area

Section 2.3.5A.10. of the Commission's *Rules of Practice and Procedure (RPP)* requires that bridges and highways that pass in or across an existing or proposed recreation project area as designated in the Comprehensive Plan receive approval under Section 3.8 of the Compact. In 1978 the Upper Delaware River was designated as a Wild and Scenic Recreational River. The Upper Delaware Wild and Scenic Recreational River was designated as a recreation project area in the Commission's Comprehensive Plan on September 13, 2001 by DRBC Resolution No. 2001-27.

Fish and Wildlife

The Application materials submitted conclude that the species of interest (Dwarf Wedge Mussel and American Bald Eagle) for the Pennsylvania Game Commission (PGC), Pennsylvania Fish and Boat Commission (PFBC) and United States Fish and Wildlife Service (USFWS) are not present in the vicinity of the project. Furthermore, clearance has been given by the PFBC for all species under their jurisdiction. Lastly, no sanctuaries or refuges were located in the vicinity of the project.

Special Protection Waters

In 1992, the DRBC adopted SPW requirements, as part of the DRBC *Water Quality Regulations (WQR)*, designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap has been classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area.

On July 16, 2008, the DRBC approved amendments to its *WQR* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation and clarity on definitions and terms were updated for the entire program.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR*, states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the applicant's service area which is also located within the drainage area of SPW. The service area of the docket holder is located within in the drainage area to the SPW. Since this project does entail additional construction and expansion of facilities/service area and there are new or increased non-point source loads associated with this approval, the NPSPCP requirement is applicable at this time. The docket holder's pre-construction and post-construction plans for erosion and sediment

control are adequate to manage stormwater runoff. These plans meet the NPSPCP requirements of the Commission for projects located in SPW. Accordingly, DECISION Condition II.j. has been included in this docket.

Flood Plain Regulations

Section 6.3.4A.7. of the Commission's *FPR* allows certain uses, including bridges, within the floodway to be authorized by special permit. Section 6.4.2A. of the Commission's *FPR* allow a special permit be granted when there is a clear balance in favor of the public interest in terms of environmental criteria. Due to the existing bridge's load rating it is clear that the facility needs to be rehabilitated or replaced as emergency vehicles of a certain size cannot access the Pond Eddy community. The bridge's replacement was chosen due to the significant funds that would have been needed to be spent to rehabilitate the bridge and its inability to still then meet all current design parameters for new bridge structures. The replacement bridge will have the same number of piers in the waterway and therefore have a similar environmental impact as the existing bridge. Commission staff conclude that for these reasons there is a clear balance in favor of public interest for this bridge.

Other

The nearest surface water intake of record for public water supply is located on the Delaware River approximately 71.5 River Miles downstream of the project, and is operated by the City of Easton.

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.

The following Permits have been/will be obtained prior to the start of the replacement bridge project commencing.

PERMIT	AGENCY	APPROVAL
Section 106	NHP	December 2012
Section 4(f)	FHA	February 2012
National Environmental Policy Act	US EPA	July 2013
Pennsylvania Act 120	PennDOT	July 2013
New York State Environmental Quality Review Act	NYSDEC	September 2013
Section 404	USACE	Pending
Chapter 105	PADEP	Pending
Article 15/401 WQ	NYSDEC	Pending
Section 7	NPS	Pending

C. DECISION

I. Effective on the approval date for Docket No. D-2015-004 CP-1 below, the project and the appurtenant facilities described in the Section A “Physical Features” of this docket shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in the Section A “Physical Features” of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP, NYSDEC, USACE, PFBC, and NPS, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

b. The bridge and roadway improvement records shall be available upon request for inspection by the DRBC.

c. 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.

d. Sound practices of excavation, backfill and reseeded shall be followed to minimize erosion and deposition of sediment in streams.

e. Within 10 days of the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date.

f. Within 30 days of completion of construction of the approved project, the docket holder is to submit to the attention of the Project Review Section of DRBC a Construction Completion Statement (“Statement”) signed by the docket holder’s professional engineer for the project. The Statement must (1) either confirm that construction has been completed in a manner consistent with any and all DRBC-approved plans or explain how the as-built project deviates from such plans; (2) report the project’s final construction cost as such cost is defined by the project review fee schedule in effect at the time the application was made; and (3) indicate the date on which the project was (or is to be) placed in operation.

g. The bridge replacement project shall commence within three years of approval of this docket or the docket holder shall demonstrate to the Executive Director that it has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval. If the bridge replacement project has not commenced within three years of Docket Approval and the docket holder does not submit a cost analysis demonstrating substantial funds have been expended, Commission approval of the bridge replacement project shall expire. If this should occur, the docket holder shall file a new application with the Commission and receive Commission approval prior to initiating construction related to any bridge replacement or modification project in the future.

h. The docket holder is permitted to construct and/or replace structures and roadways defined in the “Area Served” section of this docket.

i. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

j. The docket holder’s NPSPCP meets the general requirements of Article 3.10.3.A.2.e.1) of the Commission’s *WQR*.

k. Dredging and/or pier construction may not be performed during the time intervals required in all state or federal permits to protect the migration of anadromous fish.

l. 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.

m. The Executive Director of the DRBC, may direct a suspension of dredging operations whenever deemed by the Executive Director that the operations are not being conducted in accordance with this docket approval, are adversely affecting water quality, or are harmful to the passage of anadromous or catadromous fishes.

n. 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

DATE APPROVED: September 16, 2015