

This DRAFT Docket has been prepared for the purposes of the scheduled public hearing and may be substantially modified as a result of the public hearing process prior to Commission action. (EE)

1/21/2025 12:07

**DOCKET NO. D-1991-001 CP-5**

**DELAWARE RIVER BASIN COMMISSION**

**Drainage Area to Special Protection Waters**

**Brodhead Creek Regional Authority  
Groundwater and Surface Water Withdrawal  
Stroud Township, Monroe County, Pennsylvania**

**PROCEEDINGS**

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on October 22, 2024 for renewal of an allocation of surface water and groundwater and approval of a modification of service area (Application). The Pennsylvania Department of Environmental Protection (PADEP) public water supply permits issued for the Docket Holder's water supply sources and interconnections are as follows:

<b>PERMIT</b>	<b>PADEP PERMIT NO.</b>	<b>PADEP APPROVAL DATE</b>
Water Allocation/Succession	WA45-1001	8/21/2023
Water Allocation Permit – Brodhead Creek	WA45-134E	9/13/2017
Subsidiary Water Allocation -ESB	WA45-1000A	9/26/2017
PWS Construction Permit - PJWS	4524507MA	7/19/2024

The Application was reviewed for continuation of this project in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Monroe County Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on February 5, 2025.

**A. DESCRIPTION**

1. **Purpose.** The purpose of this docket is to renew the approval and modify DRBC Docket No. D-1991-001 CP-4 to approve an expansion of the docket holder’s public water supply service area into limited areas of Paradise Township, Pocono Township, and Jackson Township, Monroe County. The docket also updates the inclusion of three groundwater sources from the docket holder’s acquisition of the former PJJWA groundwater sources, water system infrastructure and water service area. The total allocation of 224.362 million gallons per month of surface water from Brodhead Creek and groundwater from six existing wells three of which were acquired from PJJWA is the sum of the previously approved allocation plus the PADEP approved rates for the three newly acquired PJJWA wells.

2. **Location.** Wells 1 and 2 are completed in unconsolidated glacial deposits in the Lower Brodhead Creek Watershed, Well 3 is completed in the Buttermilk Falls Formation in the Lower McMichael Creek Watershed in Stroud Township, Monroe County, Pennsylvania and PJWS Wells 1, 2 and 3 are completed in the Long Run Member of the Catskill Formation within the Appenzell Creek Watershed, in Jackson Township, Monroe County, Pennsylvania. The project surface water intake is located on Brodhead Creek within the Lower Brodhead Creek Watershed in Stroud Township, Monroe County, Pennsylvania.

Specific location information has been withheld for security reasons.

3. **Area Served.** The docket holder’s public water distribution system currently serves and over the next 10 years is intended to serve portions of Stroud Township, the Borough of Stroudsburg, Smithfield Township, Pocono Township, Hamilton Township, Jackson Township, Tobyhanna Township and Paradise Township all in Monroe County, Pennsylvania as shown on the map entitled “Brodhead Creek Regional Authority – Water Service Area Map”, dated August 21, 2024 (the “Water Service Area Map”), submitted as part of the Application. The “Area Served” comprises those areas depicted on the Water Service Area Map as the (1) the Present Water Service Area, (2) the Previously Approved Ten Year Projected Water Service Area (areas reasonably anticipated to be served within at least the next 10 years); and (3) the Proposed Expansion of Ten Year Water Service Area (Additional areas reasonably anticipated to be served within at least the next ten years). The specific modifications of BCRA’s service area included in this docket are the proposed expansion of the service area into limited areas of Paradise, Pocono, and Jackson Townships.

For the purpose of defining Area Served, the Application and Water Service Area Map is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. **Design Criteria.** The system currently serves water to approximately 32,100 customers on 4,701 domestic, 951 commercial and 23 industrial service connections and 130 institutional service connections and records an existing average and maximum daily water demand of 2.681 million gallons per day (mgd) and 3.209 mgd, respectively. The docket holder projects the 10-year average and maximum daily water demand to increase to 4.097 mgd and 5.080 mgd,

respectively. The projected demands include growth within the BCRA’s present and additional 10-year projected water service areas but do not include the 1.2 mgd emergency agreement between BCRA and East Stroudsburg Borough. Additional system demands are met with bulk water purchased from the Borough of East Stroudsburg. The bulk water purchase currently averages 0.155 mgd and is expected to increase to 0.375 mgd within the next 10 years.

Although the total allocation of BCRA’s surface water and groundwater sources approved by this docket is a monthly average of 7.237 mgd; the total amount of water is limited by the existing Broadhead Creek water treatment plant filter system design limitation of 2.5 mgd and by the Well 3 PADEP-permitted treatment capacity rate of 650 gpm. As such, BCRA’s current treatment capacity (2.5 mgd surface water) and 4.009 mgd of groundwater from Wells 1 through 3, and PJWS Wells 1 through 3 totals a monthly average of 6.509 mgd. The allocation and actual treatment capacity of water available can meet the present and projected ten (10) year peak daily demands of BCRA and also supply water under the 1.2 mgd emergency interconnection agreement with the Borough of East Stroudsburg. The interconnection with the Borough of East Stroudsburg is for emergency purposes and under their agreement is contingent upon BCRA having the available water.

**5. Facilities.** The existing project wells and intake have the following characteristics:

<b>WELL NO.</b>	<b>DEPTH (FEET)</b>	<b>CASED DEPTH/ CASING DIAMETER</b>	<b>PUMP CAPACITY (GPM)</b>	<b>YEAR DRILLED</b>
1	59'	39' / 12"	1,000 gpm	1990
2	62'	40' / 12"	1,000 gpm	1990
3	360'	135' / 10"	670 gpm	2004
1 PJWS	300'	61' /	42 gpm	1989
2 PJWS	300'	61' /	88 gpm	1989
3 PJWS	300'	63' /	13 gpm	1989

<b>INTAKE NO.</b>	<b>WITHDRAWAL WATER BODY</b>	<b>PUMP CAPACITY</b>	<b>7Q10 FLOW AT INTAKE (CFS)</b>	<b>YEAR CONSTRUCTED</b>
Brodhead Creek	Brodhead Creek	3.2 MGD (limited by screen structures; current treatment capacity = 2.5 MGD)	14.3	1958

All water service connections are metered.

All wells and the intake are metered.

The docket holder operates a water filtration plant with a filtration design capacity of 2.5 million gallons per day (mgd). Water withdrawn from the Brodhead Creek intake is conveyed to the plant for treatment including coagulation, flocculation, sedimentation, filtration, and disinfection. The water treatment plant has an overall capacity of 5.38 mgd (2.5 mgd filtration capacity for the surface water sources and 2.88 mgd storage capacity for well water).

Prior to entering the distribution system, water from Wells 1 and 2 is treated using liquid sodium hypochlorite for disinfection and liquid blended phosphate as a corrosion inhibitor. Water from Well 3 is filtered, treated with chemical addition and disinfected. Water from PJWS 1, 2, and 3 is treated using liquid sodium hypochlorite for disinfection and soda ash for pH adjustment and general corrosion control.

Existing BCRA wells 1 and 2 are located within the 100-year floodplain of broadhead Creek; however, the well casings are sealed, raised, watertight and vented at least three feet above the 100-year flood elevation. The water filtration plant building has raised foundation walls extending above the 100-year flood elevation. Existing Well 3 and the associated membrane filtration building have been raised to an elevation at least 18 inches above the 100-year flood elevation of McMichaels Creek. Existing BCRA Pocono-Jackson water system wells 1-3 and the associated water treatment building are not located within a 100-year floodplain.

The water system is presently interconnected with the Borough of East Stroudsburg's distribution system. BCRA has an Intermunicipal Bulk Water Service Agreement, to provide for the purchase of up to an average of 0.400 mgd from East Stroudsburg Borough. BCRA and the Borough of East Stroudsburg also have an agreement to take or supply up to 1.2 mgd to East Stroudsburg Borough in the event of an emergency.

**6. Other.** Wastewater from the docket holder's water service area is conveyed to the BCRA WWTP, Smithfield Sewer Authority WWTP and the East Stroudsburg Borough WWTP most recently approved by DRBC Docket Nos. D-1986-011 CP-6 on June 5, 2024, No. D-92-17 CP on June 24, 1992 and D-1987-015 CP-4 on June 9, 2021, respectively. The PADEP issued NPDES Permit Nos. PA0029289, PA0061361 and PA0020168 for the above treatment facilities. Wastewater is also discharged at the Sanofi Pasteur IWTP most recently approved by DRBC docket D-1999-071-6 on June 7, 2023 and the Pocono Mountain School District WWTP, which was approved by DRBC Docket No. D-98-3 CP on March 25, 1998. The PADEP issued NPDES Permit No. PA0060071 and PA004044 for these treatment facilities. Wastewater is also discharged at WWTP's that serve the DCNR-Swiftwater Office and the Monroe Career & Technical Institute. The approved treatment facilities have adequate capacity to continue to receive wastewater from the existing project. Wastewater generated by future projects is expected to be treated at either the existing wastewater treatment plants above, on-site treatment facilities or on-site septic systems.

**7. Relationship to the Comprehensive Plan.** The project was previously included in the Comprehensive Plan by the Commission in Docket Nos. D-67-127 CP, D-91-1 CP, D-91-1 CP-2, D-91-1 CP-3 and D-1991-001 CP-4. Issuance of this docket will continue the withdrawal project in the Comprehensive Plan.

**B. FINDINGS**

**1. Special Protection Waters**

In 1992, the DRBC amended its Water Quality Regulations (WQR) by the addition of regulations for the protection of Special Protection Waters (SPW), designed to maintain the quality of interstate waters where existing quality is better than the established stream quality objectives. As the result of its initial classifications and subsequent amendments, the Commission has designated the entire non-tidal main stem Delaware River from Hancock, New York to Trenton, New Jersey as SPW. DRBC’s SPW regulations apply within the designated reaches and their drainage area.

The wells and surface water intakes providing water supply to the docket holder are located within the drainage area to SPW. Sections 3.10.3A.2.e.1) and 2) of the WQR state that projects subject to review under Section 3.8 of the Compact that are located within 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 docket holder’s service area which is also located within the drainage area of SPW.

Each of the municipalities within the docket holder’s service area as described above in A.3 “Area Served” (including the Borough of Stroudsburg, Pocono Township, Smithfield Township, Stroud Township, Hamilton Township, Tobyhanna Township, Paradise Township and Jackson Township) have enacted and are actively implementing non-point source/stormwater control ordinances adopting the Brodhead Creek and McMichael Creek Act 167 Stormwater Management Plan, approved by the PADEP on December 2, 2022. Compliance with the Brodhead Creek and McMichael Creek Stormwater Management Plan and municipal stormwater ordinances generally meet the requirements of Article 3.10.3.A.2.e.1 of the Commission’s Water Quality Regulations for the Area Served as described in A.3. above. Prior to allowing connections from any new service areas or any new developments not in compliance with the plan or these ordinances the docket holder shall submit and have approved by the Executive Director of the DRBC a Non-Point Source Pollution Control Plan (NPSPCP) in accordance with Section 3.10.3.A.2.e. (See Section C. DECISION Condition C.29).

**2. Water Supply Studies / Implementation Previous Docket Requirements**

Condition C.11.h. in the Decision Section of DRBC Docket No. D-1991-001 CP-4 approved on September 13, 2017 required BCRA to perform certain water supply studies/implementation tasks and prepare and submit a final report and a proposed Updated Conjunctive Use Operating Plan to the DRBC and PADEP by November 30, 2020. The due date was extended one year (to November 30, 2021) by the DRBC Executive Director by letter from DRBC to BCRA dated December 2, 2020. On November 30, 2021, BCRA submitted its final annual report and the proposed updated Conjunctive Use Operations Plan to the Commission and PADEP.

As outlined in BCRA’s final annual report, the docket holder has completed the water supply studies and implementation tasks required by DRBC Docket D-1991-001 CP-4 including: completing the design, permitting and placing Well 3 into operation; evaluating the feasibility of a higher (18 cfs) P90 flow value to define Low Flow Conditions; and evaluating and pursuing additional groundwater sources to meet future demands and for use in Tier 1 and Tier 2 operations. With respect to these requirements, the docket holder has obtained the necessary PADEP permits and on August 2, 2021 placed Well 3 into operation. BCRA reports that the proposed trigger of the Conjunctive Use Operating Plan on the basis of the P90 value of 18 cfs at the Analomink gage is feasible under the Updated Conjunctive Use Operating Plan (discussed in B.3. Conjunctive Use Operations Plan in the Findings Section of this Docket). Also, BCRA reports that it evaluated additional potential groundwater sources in each of its three regions, but due to sub-watershed transfers that would occur in the locations preferred by BCRA, implementation or incorporation of additional wells in these preferred areas for use during low flow conditions is not feasible or cost-effective at this time. BCRA reports that it may yet consider developing additional wells in the future within the same region as the existing water sources. At such time, BCRA would amend its operating plan to incorporate such additional wells and to use these alternative sources as appropriate in Tier 1 and/or Tier 2 operations.

### **3. Conjunctive Use Operations Plan**

#### **Stream Gage Monitoring**

The United States Geologic Survey maintains a surface water flow gage on the Brodhead Creek at Analomink (USGS Gage 01440400), approximately 5.6 miles upstream of BCRA’s Brodhead Creek intake. Flow information from the Analomink gage is available on a real time basis through the USGS internet website: <https://waterdata.usgs.gov>

The watershed area at the USGS Analomink gage is 65.9 square miles, in comparison to the approximately 129.3 square mile watershed area of Brodhead Creek at BCRA’s intake point. Below the Analomink gage, Brodhead Creek receives additional significant tributary contributions from Paradise Creek.

The low flow statistics for Brodhead Creek at the USGS Analomink Gage are as follows:

Q<sub>7-10</sub>: 7.3 cfs (equivalent to 0.1108 cfs per sq. mile)

95<sup>th</sup> Percentile: 12.3 cfs

90<sup>th</sup> Percentile: 18 cfs

For Operating Plan purposes, BCRA will utilize measurements at the USGS Analomink gage as a reference for determining the existence of Low Flow Conditions in the Brodhead Creek. Low Flow Conditions on the Brodhead Creek will be defined at conditions when flows in Brodhead Creek at the Analomink Gage are at or below 18 cfs. BCRA will review information from the Analomink Gage on a daily basis when flows are nearing Low Flow Conditions and will commence adjustment of its operations in accordance with the conjunctive use operating criteria

set forth below. In general, it requires approximately ½ day to complete the adjustment of such source operations.

The Operating Plan is attached to this docket (Attachment 1). The docket holder must implement the Operating Plan included as Attachment 1 attached to this docket (See Section C. DECISION Condition C.10). Where changes to the updated Operating Plan are agreed to by BCRA, PADEP and DRBC, the DRBC Executive Director, with the concurrence of the Commonwealth of Pennsylvania representative to the Commission, may approve the Updated Operating Plan, and upon such approval, the Updated Operating Plan shall be incorporated in this Docket by reference.

**4. Drought Contingency Plan**

BCRA’s Drought Contingency Plan, incorporated herein by reference, is implemented during periods of drought watch, drought warning, and drought emergency as declared by the Commonwealth or the Delaware River Basin Commission. Under the Drought Contingency Plan, the actions described in the plan are anticipated to result in the following reductions in levels of water demand from those that would otherwise be expected to prevail:

<b>Action</b>	<b>Expected Water Demand Reduction</b>	<b>Drought Condition</b>
Voluntary water use restrictions	5%	Drought watch
Voluntary water use restrictions, more intense in preparation for water emergency stage	10-15%	Drought warning
Mandatory nonessential water use restrictions	15% minimum	Drought emergency
Water rationing	15-25%	Local rationing plan triggers

The conservation measures outlined in the Drought Contingency Plan apply to all customers of the BCRA system, including those receiving water pursuant to bulk purchase agreements.

**5. Water Audits for Public Water Supply Systems Serving Greater than 100,000 gpd**

Section 2.1.8 of the Water Code states that it is the policy of the Commission to establish a standardized water audit methodology for owners of water supply systems serving the public to ensure accountability in the management of water resources. Voluntary Water Audits were encouraged for public water supply systems through December 31, 2011 (Section 2.1.8.B.). Effective January 1, 2012, the owners of each public water supply system are required to implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit

Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance (Section 2.1.8.C). Water audits shall be submitted annually to the Commission by March 31. The docket holder submitted their most recent Water Audit on March 27, 2024.

**6. Surface Water Charges**

The docket holder shall pay for surface water use in accordance with Basin Regulations-Water Supply Charges 18 C.F.R. Part 420. See Section C. DECISION condition C.3.

**7. Other Findings**

As required by Docket No. D-1991-001 CP-4, the docket holder submitted a Well 3 Post-Startup Operational Monitoring Report, dated August 26, 2022. Post-startup operational monitoring at Well 3 started on July 13, 2021 and ended on July 29, 2022. The evaluation focused on periods of Well 3 operation during extended periods of low streamflow and minimal recharge. No discernable impacts were seen in McMichael Creek as a result of the operation of Well 3.

The DRBC estimates that the project withdrawals, used for the purpose of public water supply, 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-1991-001 CP-5 below, the project described in Docket No. D-1991-001 CP-4 are removed from the Comprehensive Plan to the extent that they are not included in Docket No. D-1991-001 CP-5; Docket No. D-1991-001 CP-4 is terminated and replaced by Docket No. D-1991-001 CP-5; and the project and the appurtenant facilities described in in Section A.4. (Design Criteria) and A.5. (Facilities) shall be continued in 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 continue to 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 designated agency (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.
3. The docket holder shall pay for surface water use in excess OF AMOUNT in accordance with *Basin Regulations – Water Supply Charges 18 C.F.R. Part 420*.
4. In accordance with DRBC Resolutions No. 87-6 (Revised) and No. 2009-1, the docket holder shall continue to implement to the satisfaction of the PADEP, the systematic program to monitor and control leakage within the water supply system. The program shall at a minimum include: periodic surveys to monitor leakage, enumerate non-revenue water and determine the current status of system infrastructure; recommendations to monitor and control leakage; and a schedule for the implementation of such recommendations. The docket holder shall proceed expeditiously to correct leakages and unnecessary usage identified by the program.
5. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the *Water Code (WC)*, the docket holder shall implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding guidance. Water audits shall be submitted annually to the Commission by March 31.
6. The docket holder shall implement to the satisfaction of the PADEP, a continuous program to encourage water conservation in all types of use within the facilities served by this docket approval. The docket holder will report to the PADEP, on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.
7. The docket holder shall continue to implement its Water Conservation Plan as approved by PADEP, and shall report to the PADEP on actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

**Other Conditions**

8. During any month, the combined withdrawal from all well sources shall not exceed 125.162 million gallons, the combined withdrawal from all surface water sources shall not exceed

99.20 million gallons and the combined withdrawal from all groundwater and surface water sources shall not exceed 224.362 million gallons. No well shall be pumped above the maximum rate and monthly allocation as indicated below:

<b>SOURCE ID</b>	<b>MAXIMUM RATE (GPM)*</b>	<b>MONTHLY ALLOCATION (MGM)</b>
Brodhead Creek Intake	2222.2 gpm	99.20
Well 1	1000 gpm	44.44
Well 2	1000 gpm	44.44
Well 3	670 gpm	29.90
Well 1 PJWS	42 gpm	1.874
Well 2 PJWS	88 gpm	3.928
Well 3 PJWS	13 gpm	0.580

\* Based on a 24-Hour Average

**9.** 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.

**10.** The docket holder shall implement the Operating Plan included as Attachment 1 attached to this docket. Where changes to the updated Operating Plan are agreed to by BCRA, PADEP and DRBC, the DRBC Executive Director, with the concurrence of the Commonwealth of Pennsylvania representative to the Commission, may approve the Updated Operating Plan, and upon such approval, the Updated Operating Plan shall be incorporated in this Docket by reference.

**11.** 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.

**12.** 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 .

- 13.** The wells and surface water intake and operational records shall be available at all times for inspection by the DRBC.
- 14.** The wells and surface water intake shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.
- 15.** The wells shall be equipped, where possible, with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes as repairs or modifications are made at each existing well so that water levels may be measured under all conditions.
- 16.** Each new water service connection shall include a water meter in accordance with the DRBC’s Resolution No. 87-7 (Revised).
- 17.** No water service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).
- 18.** The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.
- 19.** No new water service connections shall be made to premises connected to sewerage systems which are not in compliance with all applicable effluent limits contained in State permits and the *Water Quality Regulations* of the Commission.
- 20.** 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.
- 21.** 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*.
- 22.** The docket holder shall be subject to applicable DRBC regulatory program fees, in accordance with duly adopted DRBC resolutions and/or regulations. (see 18 CFR 401.43).
- 23.** 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).
- 24.** 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).

25. 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.

26. 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.

27. 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.

28. 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.

29. Compliance with the Brodhead Creek and McMichael Creek Stormwater Management Plan and municipal stormwater ordinances generally meet the requirements of Article 3.10.3.A.2.e.1 of the Commission's Water Quality Regulations for the Area Served as described in A.3. above. Prior to allowing connections from any new service areas or any new developments

not in compliance with the plan or these Ordinances the docket holder shall submit and have approved by the Executive Director of the DRBC a Non-Point Source Pollution Control Plan (NPSPCP) in accordance with Section 3.10.3.A.2.e. Prior to allowing connections from any new service areas or any new developments not in compliance with these Ordinances the docket holder shall submit and have approved by the Executive Director of the DRBC a Non-Point Source Pollution Control Plan (NPSPCP) in accordance with Section 3.10.3.A.2.e.

**30.** 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:**

**EXPIRATION DATE: March 12, 2035**

(see Attachment 1) Conjunctive Use Operating Plan

**ATTACHMENT 1**

**Conjunctive Use Operating Plan**

During periods when the flow in the Brodhead Creek as monitored at the USGS Analomink gage reflects Low Flow Conditions (**18 cfs**), BCRA will withdraw water as necessary to meet BCRA System Demands in the following order (subject to exigencies discussed below):

- a. **Tier 1:** The first 576,000 gpd to meet BCRA System Demand will be drawn from the Brodhead Creek intake to maintain surface water treatment plant operations.
- b. **Tier 2:** The next increment of BCRA System Demand will be met by operating Wells 1 and 2 up to their maximum available capacity, their maximum permitted rates under the PADEP public water supply permit, or their maximum combined rate of 88.88 mgm (whichever is less), by operating PJWS Wells 1, 2 and 3 up to their maximum available capacity or their maximum permitted rates under the PADEP public water supply permit (whichever is less), and by operating Well 3 up to its maximum available capacity or permitted withdrawal rates (whichever is less).
  - 1) As per Public Water Supply Operation Permit No. 2450034 the permitted capacity of Well 3 is 650 gallons per minute (gpm).
  - 2) Operational experience of Well 3 indicates that water quality (e.g. turbidity) may vary significantly based on hydrogeologic conditions and as extraction rates approach the permitted capacity. In particular, during Low Flow Conditions, turbidity in Well No. 3 will be higher and could negatively affect water quality and the operation of the Membrane Filtration Facility. Therefore, to protect water quality and operation of the Membrane Filtration Facility, during Low Flow Conditions, the operator may select an extraction rate between the range of 400 and 650 gpm for Well 3.
- c. **Tier 3:** Any remaining amount required to meet BCRA System Demand would be met by withdrawals from the Brodhead Creek intake (up to the withdrawal limits set forth in the applicable Delaware River Basin Commission (DRBC) Docket Decision and PADEP Safe Drinking Water Permit, treated at the BCRA surface water treatment plant.

The general operating criteria described above are subject to exigencies, such as the need to suspend or adjust withdrawal rates to address required preventative or corrective maintenance, emergencies, or special conditions affecting water quality or treatment processes, and similar events. During periods of Low Flow Conditions, BCRA will provide a monthly report to PADEP of such exigencies, and at the request of PADEP, BCRA shall confer with PADEP concerning measures to mitigate the impact and duration of such exigencies. In the event of constraints in the operations of Wells 1, 2, or 3 (such as constraints associated with required maintenance), BCRA will endeavor to minimize the duration and impact of such constraints

to the extent reasonably practicable, to return Wells 1, 2, and 3 to full production as expeditious as practicable.

**Recordkeeping**

BCRA maintains records of daily withdrawals from all sources through automatic recording meters that measure withdrawals from the Brodhead Creek intake and each well. BCRA will also maintain as part of its operating record, the daily flow statistics during low flow periods as reported by the USGS for the Analomink gage. (Note that the information available from the USGS upon which operations will be based is “provisional data” subject to subsequent correction and adjustment by the USGS. Because such adjustment occurs substantially after the fact, operating conditions will be based solely on “provisional data.”) All such records are available to DRBC and PADEP for review upon request.