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DOCKET NO. D-1995-019 CP-3

DELAWARE RIVER BASIN COMMISSION

Drainage Area to Special Protection Waters

**City of Bethlehem
Surface Water Withdrawal and Impoundments**

**Penn Forest and Towamensing Townships, Carbon County, Pennsylvania, Polk and
Tunkhannock Townships, Monroe County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on January 17, 2022 for modification of an existing withdrawal project involving an additional interconnection and new bulk water customer and the renewal of an allocation of surface water and review of a surface water withdrawal project (Application). The surface water project was approved by the Pennsylvania Department of Environmental Protection (PADEP) (Permit No. WA 48-339C). A Public Water Supply Permit and a Subsidiary Water Allocation Permit from PADEP for the new interconnection facilities and bulk water sale are pending.

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 Carbon County Office of Planning and Development, Monroe County Planning Commission and the Lehigh Valley Planning Commission have been notified of pending action on this docket. A public hearing on this project was held by the DRBC on August 10, 2022.

A. DESCRIPTION

- 1. Purpose.** The purpose of this docket is to approve an expansion of area served through a new interconnection in Lehigh Township, Northampton County, Pennsylvania. The docket also renews an allocation of 12 million gallons per day (mgd), based on an annual average, of surface water from Tunkhannock Creek and an allocation of 30.32 mgd (939.92 million gallons per month) of surface water from the Wild Creek Reservoir on Wild Creek for continued use in the docket holder's existing public water supply system.
- 2. Location.** The new interconnection will serve the Lehigh Valley Resort and Spa Project (Hilltop Center) all located in Lehigh Township, Northampton County.

The existing project withdrawal is from Wild Creek Reservoir located on Wild Creek approximately one-half mile upstream from the Beltzville Reservoir back water in Towamensing Township, Carbon County, Pennsylvania. The docket holder's Penn Forest Reservoir is located approximately 0.5 miles upstream from the Wild Creek Reservoir tail water in Penn Forest Township, Carbon County and Polk Township, Monroe County, Pennsylvania. The docket holder's Tunkhannock Creek withdrawal is in Tunkhannock Township, Monroe County, Pennsylvania.

The Wild Creek and Penn Forest Reservoirs are located in the Pohopoco Creek watershed and the Tunkhannock Creek withdrawal is located in the Tobyhanna Watershed, both drainage basins are within the Lehigh River Watershed. Wild Creek is designated by the PADEP as Exceptional Value Waters (EV) supporting migratory fishes (MF). Tunkhannock Creek is designated by the PADEP as high quality waters (HQ) supporting cold water fishes (CWF) and migratory fishes (MF).

Specific location information has been withheld for security reasons.

3. Area Served. Water from the three sources is conveyed approximately 22 miles via transmission main and tunnels from the Wild Creek intake to the water filtration plant and distribution system in Lehigh and Northampton Counties, Pennsylvania. The City of Bethlehem's current service area includes the City of Bethlehem, and all or parts of Bethlehem, Hanover, East Allen, Lower Saucon, Allen and Lower Nazareth Townships and Freemansburg Borough in Northampton County and Hanover, Salisbury and Upper Saucon Townships and Fountain Hill Borough in Lehigh County, Pennsylvania. The docket holder also has bulk sales agreements with customers including Community Utilities of Pennsylvania, Inc. – Westgate, Lower Saucon Authority, Upper Saucon Township, Salisbury Township. This docket approves one additional bulk sale to Lehigh Township, Northampton County, Pennsylvania via a new interconnection. The area served is outlined on a map entitled City of Bethlehem Service Territory, Dated May 13, 2015 submitted with the previous Application. A map showing the location the new interconnection in Lehigh Township is shown on a plan entitled "Pennsville Water Booster Pump Station and Watermain Extension" submitted with the application. For the purpose of defining Area Served, the Application 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 119,854 persons on 36,407 service connections and records an existing average and maximum water demand of 14.25 million gallons per day (mgd) and 19.72 mgd, respectively. In addition to these demands, the docket holder sells 0.499 mgd in bulk water sales. The docket holder projects the 10-year average and maximum water demand to increase to 14.83 mgd and 20.770 mgd, respectively. Over the same period, bulk water sales are projected to increase to 0.724 mgd, which includes the additional sale of 0.225 mgd to Lehigh Township. In addition, the docket holder has existing interconnections with several neighboring water suppliers that can be used to supply water to these systems in the event of an emergency. The hydraulic capacity of the emergency interconnections is at least 7.8 mgd. This total does not include the capacity of several of the interconnections as detailed hydraulic capacity studies have not been completed for these

interconnections. The allocation of 939.92 mgm (30.32 mgd) requested by the docket holder should be sufficient to meet its 10-year projected demands and bulk water sales and the capacity for emergency interconnections should they be needed.

The City of Bethlehem water supply relies exclusively on surface water sources, namely the Wild Creek and Penn Forest Reservoirs, both located on Wild Creek approximately 22 miles north of the City of Bethlehem. The docket holder's Tunkhannock Creek withdrawal provides supplemental supply to the Penn Forest Reservoir when water quality is satisfactory, and streamflow is adequate. The two reservoirs have a combined storage of 9.9 billion gallons, which when full is sufficient to supply a normal flow of water to the service area for at least 12 months with no rainfall. Under normal pool elevations, the safe yield of the three sources is 26.3 million gallons per day. Without the Tunkhannock Creek diversion, the safe yield of the two reservoirs is 22.4 million gallons per day. Dual transmission mains convey water from the Wild Creek reservoir to the docket holder's water filtration plant located in Lehigh Township, Northampton County where it is treated and distributed to the docket holder's service area in Lehigh and Northampton Counties.

5. Facilities. The major facilities used for the purpose of providing water to the City of Bethlehem public water supply system include the Wild Creek Reservoir and Penn Forest Reservoir, Tunkhannock Creek Diversion, water transmission mains, water filtration plant, distribution system including water storage tanks and pumping stations and permanent and emergency interconnections with neighboring municipalities.

Specific details of each of these facilities are as follows:

5.1 Tunkhannock Creek Withdrawal

The Tunkhannock Creek intake is a run-of-stream intake constructed in 1968 and is located in Tunkhannock Township, Monroe County, Pennsylvania. The Commission approved the Tunkhannock withdrawal in Docket No. D-66-52 CP on April 27, 1966. The drainage area above the intake is approximately 8.6 square miles. Water from the Tunkhannock Creek watershed is diverted through 8.5 miles of 42-inch and 30 mains to the Wild Creek Watershed (Penn Forest Reservoir) when water quality is satisfactory, and streamflow is adequate. The capacity of the intake is 45.7 mgd, however, the docket holder is approved by PADEP and DRBC to take up to 12 million gallons per day, when available, on an average annual basis and the diversion is subject to PADEP passby requirements.

5.2 Penn Forest Reservoir

The Penn Forest Dam is located on Wild Creek in Penn Forest Township, Carbon County, Pennsylvania approximately 0.5 miles upstream from the tail water formed by the Wild Creek Dam. The original Penn Forest dam was constructed 1958 and replaced in 1998. The Penn Forest Dam Replacement project is described in Docket No. D-95-19 CP, approved by the Commission on April 30, 1997. The current dam is a roller compacted concrete dam measuring approximately 2,050 feet in length and 180 feet high. The spillway and normal pool is located at an elevation of 1000.6 feet above mean sea level (MSL). The Penn Forest Reservoir has a

capacity of 6.0 billion gallons and a drainage area of 16.5 square miles. Water from the Penn Forest Reservoir is released to Wild Creek which flows into the Wild Creek Reservoir.

5.3 Wild Creek Reservoir

Wild Creek Dam is located on Wild Creek in Towamensing Township, Carbon County approximately one-half mile upstream of the pool created by Beltzville Dam and about three miles downstream from the Penn Forest Reservoir Dam. Wild Creek Dam, constructed in 1941, is a rolled earth and coarse fill embankment measuring approximately 1,076 feet long and 135 feet high. The spillway and normal pool is located at an elevation of 820 feet above MSL. The Wild Creek reservoir has a storage capacity of 3.9 billion gallons and is supplied by releases from Penn Forest Reservoir and the additional 5.7 square mile watershed between the two reservoirs. The total drainage area above the Wild Creek Dam is approximately 22 square miles. The Wild Creek outlet structure (Intake 001) having a capacity of 33.0 mgd delivers water to two (30- to 42-inch) diameter transmission mains and two 48-inch diameter rock tunnels that convey water to the water filtration plant located approximately 22 miles south of the intake. The docket holder is permitted by PADEP to withdraw up to 30.32 mgd from the Wild Creek Reservoir and is also subject to conservation release requirements.

5.4 Water Filtration Plant

Raw water from the surface water sources is treated at the 28.6 mgd capacity water filtration plant located in Lehigh Township, Northampton County, Pennsylvania. The filtration plant was originally designed for 42 mgd, but was renovated and rerated at 28.6 mgd with nine filter beds in service and one filter bed out of service. Plant processes include pre and post chemical treatment, flocculation and direct filtration. Chemicals used in the treatment process include gaseous chlorine, hydrated lime and liquid alum, caustic soda, zinc orthophosphate and hydrofluosilicic acid. The plant includes necessary appurtenances such as control and instrumentation equipment, a 7.66 mg clearwell and process wastewater facilities.

Filter backwash is discharged to a flow equalization basin and then to one of two lagoons for settlement of suspended solids. Lagoon supernatant is recycled back into the head of the plant. Under emergency overflow conditions, the supernatant can be discharged via Outfall No. 001 to an unnamed tributary to Indian Creek per PADEP NPDES Permit No. PA0062618. Under normal operations, no wastewater is discharged from the lagoons.

5.5 City of Bethlehem Interconnections

The City of Bethlehem distributes water to water purveyors via the following interconnections:

Name of Interconnected Water Purveyor	Frequency of Interconnection Use	Capacity of Interconnection
City of Allentown – (3)	Emergency	2.500
Easton Suburban Water Authority (2)	Emergency	1.340
Hellertown Borough Authority	Emergency	0.475
Salisbury Township	Emergency	0.500
Northampton Borough Municipal Authority	Emergency	3.000

Upper Saucon Township (3)	Emergency	Unknown
Salisbury Township	Regular	0.001
Community Utilities of Pennsylvania, Inc.-Westgate (2)	Regular	0.200*
Lower Saucon Authority (9)	Regular	0.500*
Upper Saucon Township	Regular	0.300
Upper Saucon Township (2)	Auxiliary	0.720*
Lehigh Township	Regular	0.225
Notes: number of interconnections denoted in parenthesis * indicates that the capacity of one or more interconnections is unknown. Minimum hydraulic capacity listed.		

All water service connections are metered.

Surface water withdrawals from Wild Creek Reservoir and Tunkhannock Creek are metered.

The Bethlehem Water Filtration Plant in Lehigh Township, Northampton County, is not located in the flood hazard area.

6. Other. Wastewater from the docket holder’s service area is conveyed to several wastewater treatment plants. A listing of the WWTP facilities and DRBC and PADEP approval information is summarized in the following table:

Facility	DRBC Docket	DRBC Approval Date	PADEP NPDES Permit No.
City of Bethlehem WWTP	D-1971-078 CP-4	6/12/2019	PA0026042
Catasauqua WWTP	D-1986-032 CP-3	12/13/2017	PA0021580
Upper Saucon Township WWTP	D-2003-5 CP*	6/26/2003	PA0053147
City of Allentown WWTP	D-97-14 CP	8/6/1997	PA0026000
Lehigh Township Municipal Authority Pennsville WWTP	D-1994-054 CP-3	3/13/2019	PA0063231

*Docket application inhouse for the approval of an WWTP expansion

The treatment facilities have adequate capacity to continue to receive wastewater from the project. Wastewater from the new interconnection and bulk sale of water to the Hilltop Center in Lehigh Township will be treated at the existing Lehigh Township Municipal Authority Pennsville WWTP. Phase 1 of the Hilltop Center Project will generate 0.034 mgd and will not exceed the exiting treatment capacity of the existing Pennsville WWTP. Phase II of the Hilltop

Center will generate additional wastewater (approximately 0.200 mgd). Flows from Phase II of the proposed development will be treated at a new 0.260 mgd WWTP. The new WWTP and its discharge will require approval by the DRBC.

7. **Cost.** The cost of the new interconnection project is estimated to be \$3,700,000.

8. **Relationship to the Comprehensive Plan.** The Bethlehem Water Supply project including the Penn Forest and Wild Creek Reservoirs was previously included in the Comprehensive Plan by the Commission Via Addendum No. 1 Phase I, Section VII – Pre-existing Projects adopted July 25, 1962. The Tunkhannock Creek diversion project to supplement supply to the Penn Forest Reservoir was included in the Comprehensive Plan via docket No. D-66-52 CP on April 27, 1966. Reconstruction of the Penn Forest Dam was approved by Docket No. D-95-19 CP on April 30, 1997. Beltzville Reservoir, located just downstream of the City of Bethlehem’s Penn Forest and Wild Creek Dams, is a multi-purpose project that provides water supply, flood control and recreation and was also included in the Comprehensive Plan via addendum No. 1 Phase I, Section VII – Pre-existing Projects adopted July 25, 1962.

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 docket holder’s interconnection project and new area served (Hilltop Center) are located within the drainage area to SPW. An Erosion and Sedimentation Control Plan and Post Construction Stormwater Management Plan have been prepared for the interconnection project and are under review by the Township. As noted above in A.3. the docket holder’s interconnection project and new area served is located in Lehigh Township, Northampton County. This municipality has enacted and is actively implementing a non-point source/stormwater control ordinance adopting the Trout/Bertsch Creeks Watershed and Hokendauqua Creek Watershed Act 167 Stormwater Management Plan. Compliance with the Trout/Bertsch Creeks Watershed and Hokendauqua Creek Watershed Act 167 Stormwater Management Plan, approved by the PADEP on December 3, 2010 and the Lehigh Township Ordinance No. 2007-4, adopted April 24, 2007 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 within Lehigh Township. Prior to allowing connections from any new service

areas or any new developments not in compliance with this Ordinance 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.

2. 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 18, 2022.

3. Allocations, Conservation Releases and Passby Flow Requirements

PADEP Water Allocation Permit No. WA 48-339C grants Bethlehem Authority/City of Bethlehem the right to withdrawal up to 30.32 mgd, peak day from the Wild Creek supply and up to 12.0 mgd, when available, on an average annual basis from Tunkhannock Creek. The PADEP Water Allocation Permit requires a continuous flow of not less than 6.2 cubic feet per second (cfs), (4.0 mgd) be allowed to pass the Tunkhannock Creek intake at all times. The permit also requires a continuous flow of not less than 3.9 cfs, (2.5 mgd) be maintained below the Wild Creek Reservoir dam at all times.

4. Surface Water Charges / Entitlement

On August 6, 1976, DRBC issued Certificate of Entitlement No. 299 to the Bethlehem Municipal Authority. The Certificate entitled BMA to use, withdraw or divert up to 1,039.680 mgm non-consumptive use and up to 115.520 mgm consumptive use without charge from its Wild Creek Intake in Towamensing Township Carbon County, Pennsylvania. The docket holder shall pay for surface water use in excess of the consumptive use and non-consumptive use listed in Entitlement No. 299 in accordance with the provisions of Resolution No. 74-6, as amended as described in Section C. DECISION Condition C.3.

5. Other Findings

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 Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

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-1995-019 CP-3 below, the project described in Docket No. D-1995-019 CP-2 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1995-019 CP-3; Docket No. D-1995-019 CP-2 is terminated and replaced by Docket No. D-1995-019 CP-3; 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 the amounts listed in Entitlement No. 299 in accordance with *Administrative Manual – Part III Basin Regulations – Water Supply Charges 18 CFR Part 420*.
4. 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 responsible agent for the project. The Statement must (a) 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; (b) report the project’s final construction cost as such cost is defined by the project review fee schedule in effect at the time application was made; and (c) indicate the date on which the project was (or is to be) placed in operation. In the event that the final project cost exceeds the estimated cost used by the applicant to calculate the DRBC project review fee, the

statement must also include (d) the amount of any outstanding balance owed for DRBC review. Such outstanding balance will equal the difference between the fee paid to the Commission and the fee calculated on the basis of the project’s final cost, using the formula and definition of “project cost” set forth in the DRBC’s project review fee schedule in effect at the time application was made.

5. 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.

6. 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.

7. 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.

8. 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.

9. The docket holder shall submit copies of the approved PADEP Water Supply Permit and Subsidiary Water Allocation Permit for the interconnection project to the Commission within 60 days of receipt.

Other Conditions

10. No intake shall be pumped above the maximum rate and monthly allocation as indicated below:

INTAKE NO.	DAILY RATE	MONTHLY ALLOCATION
001 Wild Creek Reservoir Intake	30.32 mgd	939.92

INTAKE NO.	DAILY RATE	MONTHLY ALLOCATION
002 Tunkhannock Creek Intake	12 mgd (annual average)	372.00

11. In accordance with 18 CFR 401.8. of the Commission’s Rules of Practice and Procedure (RPP), if at any future time the Project is changed substantially 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 substantial for purposes of this provision.

12. Section 2.3.10 of the Commission’s Rules of Practice and Procedure (18 C.F.R. 401.41), limiting the Commission’s approval to three years in the absence of an expenditure of substantial funds by the project sponsor in reliance on the approval, is hereby waived for good cause shown in accordance with Section 2.9.3 (18 C.F.R. 401.123) of the same regulations. 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.

13. 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 CFR 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 or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below, the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

14. The surface water intakes and operational records shall be available at all times for inspection by the DRBC.

15. The surface water intakes shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.

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. Sound practices of excavation, backfill and reseedling shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.

20. 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.

21. 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.

22. 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*.

23. 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).

24. 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).

25. 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 CFR 401.43).

26. 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.

27. 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.

28. 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.

29. 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.

30. Compliance with the Trout/Bertsch Creeks Watershed and Hokendauqua Creek Watershed Act 167 Stormwater Management Plan, approved by the PADEP on December 3, 2010 and Lehigh Township Ordinance No. 2007-4, adopted April 24, 2007 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 within Lehigh Township. 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.

31. 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: September 8, 2032

DRAFT