DOCKET NO. D-2016-003 CP-1

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

Crossroads Ventures, LLC
Modified Belleayre Resort at Catskill Park
(Wildacres Resort and The Highmount Spa Resort)
Groundwater Withdrawal and Water Exportation
Town of Middletown, Delaware County and Town of Shandaken, Ulster County, New York

PROCEEDINGS

This docket is issued in response to an Application submitted by Crossroads Ventures, LLC ("Crossroads or docket holder") to the Delaware River Basin Commission ("DRBC or Commission") on April 25, 2016 for an allocation of groundwater and review of a groundwater water withdrawal and water importation and exportation project (Application). The Final Environmental Impact Statement was accepted on September 2, 2015 and the NYSDEC issued its State Environmental Quality Review Act (SEQRA) Findings Statement and SPDES and Protection of Water Permits on December 2, 2015. The water supply facilities require approval by the New York State Department of Health (NYSDOH).

The Application was reviewed for inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Delaware County and Ulster County Planning Departments have been notified of pending action on this docket. A public hearing on this project was held by the DRBC on November 9, 2016.

A. DESCRIPTION

1. Purpose. The purpose of this project is to approve a withdrawal of up to 8.122 million gallons per month of groundwater from wells K2, K3, K4 and Q1 for public water supply of a new resort and the exportation of up to 8.122 mgm of water from the Delaware River Basin to the Middle Hudson River Basin. The water withdrawn for public supply from sources in the Delaware River Basin will be used in the basin and after use, the water will be conveyed out-of-basin to an existing wastewater treatment plant located in the Middle Hudson River Basin. The docket also approves the importation of water for snowmaking on proposed ski trails and lift areas in the DRB from surface water source located in the Middle Hudson River Basin.

2. Location. The Modified Belleayre Resort at Catskill Park project is situated on 739 acres of land in in the Town of Shandaken, Ulster County and in the Town of Middletown, Delaware

County, New York, west of the adjacent Belleayre Mountain Ski Center (BMSC). All but, 17 acres of the easternmost portion of the project is located in the Delaware River Basin. The K2, K3 and K4 wells are located in the drainage area of the Bush Kill in the Village of Fleischmanns, Delaware County, New York and Q1 is located in the drainage area of Emory Brook in the Town of Middletown, Delaware County, New York. All of the project wells are completed in the Lower Walton Formation and are located in the East Branch Delaware River Watershed, upstream of the Pepacton Reservoir within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware that is designated as Special Protection Waters (SPW). Emory Brook and Bush Kill are classified by the NYSDEC as Class B(TS) and Class B(T) streams, respectively.

Specific location information has been withheld for security reasons.

3. **Area Served.** The water withdrawn from the four public water supply wells will ultimately be exported from the Delaware River Basin as wastewater after use. The project withdrawals will serve only the modified Belleayre Resort at Catskill Park Project that includes the Wildacres Resort and the Highmount Spa Resort development areas in The Town of Middletown, Delaware County and the Town of Shandaken, Ulster County, New York. Wastewater generated by the resort will be conveyed out-of-basin to the exiting Pine Hill Sewer system and treated at the Pine Hill WWTP located in the Middle Hudson River Basin. The service area is outlined on a map entitled "Service Area Map" 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. **Physical features.**

a. **Design criteria.** The Project contains a mix of resort land uses that include recreational, lodging, lodging-related commercial, spa, and areas to remain undeveloped. Four groundwater wells will be used to supply potable water and fire flow to the buildings on the resort property. The water infrastructure will include water mains, booster pump stations, pressure regulating valve vaults, and storage tanks. The average and maximum daily water demands for the Belleayre Resort following development is estimated to be 0.111 million gallons per day (mgd) and 0.262 mgd, respectively. The average demand represents a 70 percent occupancy rate and the maximum daily demand assumes a 100 percent occupancy rate after full build out of the project, which is expected to take nine (9) years. The allocation of 8.122 mgm (0.262 mgd) should be sufficient to meet the future demands of the project.

b. **Facilities.** The proposed potable supply wells have the following characteristics:

WELL ID.	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY*	YEAR DRILLED
K2	373’	20’ / 8”	75	2007
K3	323’	20’ / 8”	75	2007
K4	365’	20’ / 8”	82	2007
Q1	373’	20’ / 8”	45	2008

* Pumps not yet installed. Listed pump capacity is equal to the approved rates.

All wells will be metered.

Water will not be metered at the service level as all components of the project served by water will be owned and operated by one commercial resort entity.

Prior to entering the distribution system, the water will be treated by a microfiltration system for arsenic removal and disinfected using chlorine. Backwash water from the treatment system will be discharged to the sewer system.

The project wells and water treatment building are located outside of the 100-year floodplain.

The water system is not presently interconnected with any other distribution system.

An 18-hole golf course is also proposed on the Wildacres Resort section of the development. The irrigation needs will be met using stormwater captured on site and three groundwater wells.

The proposed irrigation supply wells have the following characteristics:

WELL ID.	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY*	YEAR DRILLED
Janis East	698’	40’ / 6”	10	2000
Z	548’	20’ / 8”	13	2007
Pool	498’	50’ / 6”	13	1999

* Well pumps not yet installed. Listed pump capacity is equal to the tested rates.

c. <u>Other.</u> Wastewater from the Project will be collected and transported out-of-basin to the Pine Hill sewer system and treated at the existing Pine Hill Wastewater Treatment Plant (WWTP) owned by New York City DEP. The NYSDEC issued its most recent SPDES Permit No. NY0026557 on March 14, 2011 for this treatment facility. According to the NYSDEC, the treatment facility has adequate capacity to receive wastewater from the proposed project.

d. **Cost.** The overall cost of this project is estimated to be $3,915,000.

e. **Relationship to the Comprehensive Plan**. The project's export of water (as wastewater) from the Delaware River Basin to the Middle Hudson Basin and the import of surface water from the Middle Hudson River Basin for snowmaking purposes is hereby included in the Comprehensive Plan.

B. FINDINGS

Special Protection Waters

In 1992, the DRBC adopted Special Protection Waters 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 were 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 *Water Quality Regulations* that provide increased protection for waters that the Commission classifies as Special Protection Waters. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for Special Protection Waters designation and clarity on definitions and terms were updated for the entire program.

Article 3.10.3A.2.e.1). and 2). of the *Water Quality Regulations, Administrative Manual - Part III,* states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of Special Protection Waters must submit for approval a Non-Point Source Pollution Control Plan 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 Special Protection Waters unless the project is located above one of the impoundments designated in Section 3.10.3A.2.g.5 of the WQR.

The project service area within the Delaware River Basin is located above the Pepacton Reservoir (a listed impoundment in Section 3.10.3A.2.g.5 of the Commission's WQR). Therefore, a NPSPCP is not required for this facility.

Pumping Tests

In 2007 and 2008, pumping tests were conducted on Wells K2, K3, K4 and Q1 in accordance with Pumping Test Protocols approved by the NYSDEC and NYSDOH.

K Wellfield Pumping Tests

Two separate pumping tests were performed on the three wells that comprise the K wellfield. The objective of the pumping tests was to determine the sustainable yield from various simultaneous pumping combinations of wells K2, K3, and K4 to assess the potential effects of pumping those wells on nearby water supplies, surface waters and springs.

Beginning on September 25, 2007, wells K2 and K4 were pumped simultaneously at average rates of 65 gpm each (130 gpm total). After 76 hours of pumping, total drawdown observed in wells K2 and K4 was 99.1 and 98.3 feet, respectively. Long term projections based on 180-days of continuous pumping of both wells at 65 gpm each, with no aquifer recharge, resulted in projected total drawdown of 102 and 101 feet at wells K2 and K4, respectively. The available drawdown projected in well K2 and well K4 at the end of the 180-day hypothetical pumping period is 119 feet and 91 feet, respectively. The final six hours of water level data from the simultaneous, constant rate pumping test of wells K2 and K4 show stabilized water levels were achieved in accordance with NYSDOH criteria. Water levels in the two pumping wells achieved 90 percent recovery within 90 minutes after pumping ceased.

Beginning on October 2, 2007, wells K3 and K4 were pumped simultaneously at average rates of 75 gpm and 82 gpm (157 gpm total), respectively. After 73.25 hours of pumping, total drawdown observed in wells K3 and K4 was 132.2 feet and 125.9 feet, respectively. Long term projections based on 180-days of continuous pumping of well K3 at 75 gpm and well K4 at 82 gpm, with no aquifer recharge, resulted in projected total drawdown of 137 and 128 feet, respectively. The available drawdown projected in wells K3 and K4 at the end of the 180-day hypothetical pumping period is 55 feet and 64 feet, respectively. The final six hours of water level data from the simultaneous, constant rate pumping test of wells K3 and K4 (157 gpm total) show stabilized water levels were achieved in accordance with NYSDOH criteria. Water levels in the two pumping wells achieved 90 percent recovery within 90 minutes after pumping ceased.

During the pumping test, water levels were measured in three residential wells (the Banks Well, the Combs Well and the Mansion Well), four wells owned by the Village of Fleischmann's (Village Wells 1A, 3, 4 and the Trailer well) and a spring (Spring K-1) located near the K Wellfield. Additionally, surface water levels were measured on the Emory Brook, Todd Mountain Brook and Bush Kill. Based on water level and water quality data, the pumping test withdrawals did not impact any surface water body or spring. Drawdown from the K well field pumping tests occurred in two wells (the Mansion Well and Trailer Well). The Mansion Well and the Trailer Well experienced drawdowns of 19.2 and 13.5 feet, respectively, during the K2- K4 test, and 23.8 and 17.4 feet, respectively, during the K3-K4 test. These drawdowns are minimal compared to the available drawdown in the wells and will not diminish the function of these domestic wells to

produce water. No drawdown was experienced at the Village of Fleischmanns water supply wells, which are further away from the K well field than the Mansion Well or the Trailer Well.

The review and analysis of data collected during the two simultaneous, constant rate, pumping tests demonstrate that the K well field is capable of sustaining a long term, average pumping rate of 157 gpm. The well field is capable of sustaining this rate without adversely impacting existing water supplies, streams, or springs.

Well Q1 Pumping Test

The Q1 well is located approximately 1.5 miles from the K Wellfield. A pumping test was performed to determine the sustainable yield and assess the potential effects of well Q1 pumping on nearby water supply wells, surface waters and springs. Particular attention was placed on the Village of Fleischmann's water sources, which include nearby springs and water supply wells.

Beginning on November 7, 2008, well Q1 was pumped at an average rate of 45 gpm for a total of 75 hours. At the end of the pumping period, total drawdown in well Q1 was approximately 123.8 feet. The drawdown in the well was projected to be approximately 138 feet after 180 days of continuous pumping at 45 gpm, with approximately 173 feet of available drawdown remaining. The final six hours or more of water level data from the constant rate pumping test of well Q1 show stabilized water levels were achieved according to the NYSDOH criteria. The water level in well Q1 achieved 90 percent recovery within 3 hours after pumping ceased.

During the pumping test, water levels were measured in nearby wells including two wells owned by the Village of Fleischmann's (Wells 1A and 4), two residential wells (Moran and Dignes Wells), one commercial well (Realty well), and three wells owned by Crossroads (Janis East, Z well, and Q2). Flows from the Fleischmann's Springs were also monitored during the pumping test using a v-notch weir equipped with a pressure transducer/data logger. Surface water measurements were also collected at two locations in Emory Brook during the pumping test. The well Q1 pumping test influenced water levels in wells 1A, 4, the Reality Well, Z Well and Q2 with drawdown in these wells ranging from 0.6 feet to 31 feet. The two residential wells were unaffected by the pumping of well Q1. The pumping test had no impact on the Village of Fleischmann's spring flow. Additionally, water level data from Emory Brook show no impact from pumping during the well Q1 pumping test.

The review and analysis of data collected during the constant rate pumping test demonstrates that well Q1 is capable of sustaining a long term, average pumping rate of 45 gpm without adversely impacting existing water supplies, streams, or springs.

Golf Course

The proposed 18-hole golf course will require up to 3.213 mgm of water for irrigation of approximately 65 acres of turf. Up to 1.65 mgm of irrigation water will be obtained from three groundwater wells (Janis East, Z Well and the Pool Well) located on the resort property. The remainder of the water demand (up to 1.55 mgm) will be met using captured stormwater runoff from impervious surfaces in the development area. All stormwater and groundwater from the irrigation wells will be piped to and stored in a 3.725-million gallon capacity lined storage pond. The golf course irrigation system will be constructed so that it will be possible to reduce the area

to be irrigated if and when it becomes necessary to conserve irrigation water during dry conditions or declared droughts. If necessary, wells K2, K3, K4 and Q1 may be used to supplement the initial irrigation demands during the golf course construction and grow in period prior to the wells being placed into service as public water supply sources.

Water Exportation/Importation

Groundwater withdrawn from the project wells will be used for potable supply at the project and the resulting wastewater will be exported from the DRB to the existing Pine Hill sewage system where it will be treated at the Pine Hill WWTP located in the Middle Hudson River Basin. The estimated peak daily potable water demand of the resort is estimated at 0.262 mgd, which is expected to generate 145,200 gpd of wastewater effluent at full project build out and 100 percent occupancy.

A portion of the former Highmount Ski Center may be leased or sold to New York and used to develop new ski lifts and trails with snow making capacity configured to provide ski-in-ski-out public access to the resort. An estimated volume of 52 million gallons of water per season will be used for snow making purposes on the property in the DRB. Water for this will be supplied by the BMSC existing snow making system, which utilizes surface water from its sources in the Middle Hudson River Basin. The transfer of water into the DRB for snowmaking purposes will offset some of the water exported from the DRB by the project.

Commission staff have reviewed the project pursuant to the requirements A through H contained in Section 2.30 (Importation and Exportation of Water) of the Delaware River Basin Water Code. The review results in the following:

A. Efforts to first develop or use and conserve the resources outside of the DRB: Initially, the project was to be served by groundwater sources known as the Rosenthal Wells, located in the Birch Creek watershed outside of the DRB. However, concerns had been raised regarding the use of the Rosenthal Wells and the potential effect on the flow in Birch Creek. The preference of the environmental parties was to prioritize the use of other potable water sources rather than the Rosenthal Wells. In keeping with this preference, the new wells are located outside of the Birch Creek drainage system and near the Village of Fleischmanns.

Additionally, several alternatives were evaluated for treatment and disposal of the wastewater on-site, which would eliminate the exportation of water from the DRB. On-site subsurface treatment was not possible for this project due to the steep terrain and volume of wastewater that would require a large leach field. On-site wastewater treatment and surface discharge to a stream was also evaluated, but was discontinued in favor of connecting to the existing Pine Hill WWTP. The existing Pine Hill WWTP is an updated treatment plant with capacity to treat the full build out maximum day flow of the project. Sending project wastewater to the Pine Hill WWTP eliminates the need for a separate project wastewater discharge in the DRB.

B. Water Resource Impacts: Potential impacts of the proposed withdrawals for water supply purposes on groundwater and surface water resources have been evaluated by

conducting multiple aquifer tests. The results of these tests are documented in the June 22, 2009 pumping test report submitted to the Commission with this Application. The results indicate that the yields of wells K2, K3, K4 and Q1 are capable of sustaining the proposed 0.262 mgd peak demand withdrawal and that the withdrawal will not adversely impact groundwater or surface water resources.

The primary concern of the transfer of water from the Middle Hudson River Basin to the DRB for snowmaking is the potential impact to watercourses due to runoff from snowmelt. The NYSDEC BMSC Unit Management Plan Findings Statement indicated that downstream drainage channels would not be negatively impacted due to the increase of runoff during the period of snowmelt. In addition, during construction of the ski trails, water bars would be constructed which would act to slow snowmelt and stormwater runoff from the ski trails.

C. Economic and social impacts: The project will create local social and economic benefits. Construction of the resort will create 474 permanent jobs to support the surrounding community. Portions of the property may be made available for sale or lease to the State of New York or other public entity for operation as a ski center which will allow for additional recreational opportunities. The project will also provide increased state and county tax revenues.

The "no project" alternative would not lead to economic development within the community and would not create jobs to support this community.

D. Amount, timing and duration of the proposed transfer and its relationship to passing flow requirements and other hydrologic conditions in the Basin, and impact on instream uses and downstream waste assimilation capacity:

The project will result in the transfer of up to 0.262 mgd of water from the DRB to the Middle Hudson River Basin. This volume represents the peak daily demand of the project at 100 percent occupancy and after full buildout. The actual volume of water exported from the basin will likely be less. Based on wastewater flow estimates using the 1988 DEC Design Standards for Wastewater Treatment Works including a 20 percent reduction for using water savings fixtures, the project is expected to generate a wastewater flow of 145,200 gpd at full build out and 100 percent occupancy. The duration of the transfer can be expected to be permanent and occur year round.

The proposed transfer will have no significant impacts on passby flow requirements. The proposed withdrawal was evaluated through multiple aquifer tests as part of the hydrogeologic investigation for the project as described in the June 22, 2009 pumping test report. These tests indicated that withdrawal of the proposed 0.262 mgd will have no adverse impacts to groundwater or surface water resources. An interbasin transfer analysis submitted with the application concluded that this interbasin transfer of water associated with the project will not negatively impact base flows in the Delaware River system. Additionally, the project is upstream of the Pepacton Reservoir, which has the capacity to offset any concerns regarding hydrologic conditions, instream uses or downstream waste assimilation capacity in the Delaware River Basin.

The transfer of water into the basin for snowmaking purposes will occur seasonally from November through February, but will not be realized until the spring when the snowpack melts. Based on a conservative estimate of 1 million gallons per acre per season, the 52 acres of ski trails and lift areas in the basin will require 52 million gallons of water for snowmaking.

E. Benefits that may accrue to the DRB as a result of the proposed transfer: The alternative to the transfer of water out of the Basin is to construct a wastewater treatment plant in the basin. This would require a discharge to SPW waters with potential risk for direct pollution of the stream. The basin will also realize economic and recreational benefits described in Item C. above.

F. Volume of transfer and its relationship to other specified actions or resolutions by the Commission Actions: The area of the basin affected by the proposed transfer is above the Pepacton Reservoir and the transfer will represent an insignificant reduction in baseflow to the reservoir. The transfer will have no impact relative to drought operating plans and/or flow requirements in the DRB. There are no other resolutions, policies or regulations of the Commission that will be affected by the diversion. Additionally, some of the water transferred out-of-basin will be offset by the volume of water transferred into the basin for snowmaking purposes.

G. Volume of transfer and its relationship to all other diversions: The proposed 0.262 mgd diversion from the basin and the 52 million gallon per year diversion into the basin are small quantities compared to other diversions within the basin. For instance, the Schuylkill County Municipal Authority is approved to divert up to 1.0 mgd from the DRB and the Wildwood Water Utility is approved to divert up to 10.1 mgd from the DRB. Additionally, New York City regularly transfers over 500 mgd from the basin and over half of the transfer is taken from the Pepacton Reservoir in the same watershed as this project.

H. Other Impacts: There are no other foreseeable impacts associated with this out of basin transfer of water.

The easternmost portion of the project area is located in the Middle Hudson River Basin. This out-of-basin area contains portions of two golf course holes (Holes Nos. 7 and 8) that will receive irrigation water sourced from within the DRB. The remainder of the golf course is located within the DRB. Staff estimate the potential irrigation area located outside of the basin represents approximately 10 percent of the golf course's total irrigation area. Based on the total irrigation demand, the water exported from the DRB for irrigation purposes will be less than 100,000 gpd.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

The DRBC estimates that the project withdrawals, used for the purpose of potable supply and exported out of the basin, result in a consumptive use of 100 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 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

I. Effective on the approval date for Docket No. D-2016-003 CP-1 below, the project and the appurtenant facilities described in the Section A "Physical features" shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in the Section A "Physical features" 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 NYSDEC and NYSDOH, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission's. The docket holder shall also satisfy annual withdrawal, capacity and conservation reporting requirements in the form and manner prescribed by NYSDEC's Division of Water in accordance with NYCRR Part 601.5(a).

b. The wells and operational records shall be available at all times for inspection by the DRBC.

c. The wells shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

d. During any month, the combined withdrawal from K2, K3, K4 and the Q1 well sources shall not exceed 8.122 million gallons. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL ID.	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION	WELLFIELD ALLOCATION
K2	75 gpm	3.348 mgm	157 gpm and 7.008 mgm
K3	75 gpm	3.348 mgm	
K4	82 gpm	3.661 mgm	
Q1	45 gpm	2.009 mgm	Not applicable

e. The wells shall be equipped with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes so that water levels may be measured under all

conditions. Existing wells are to be similarly equipped, where possible, with readily accessible ports and ½ inch ID drop pipes as repairs or modifications are made at each existing well.

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 (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.

g. This approval of the construction related to the facilities described in this docket shall expire three years from the approval date below unless prior thereto the docket holder has commenced operation of the subject project or has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval.

h. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the NYSDEC annually and shall be available at any time to the Commission if requested by the Executive Director.

i. 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).

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

k. 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.

l. 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.

m. 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*.

n. Unless the docket holder requests an extension and that is approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges 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 (or the later date established by an extension that has been timely requested and approved), 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.

o. 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 in order to insure the proper control, use and management of the water resources of the Basin.

p. 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 docket 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.

q. 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.

r. For the duration of any drought emergency declared by either New York 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 New York, to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

s. 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: December 14, 2016

EXPIRATION DATE: December 14, 2026