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DOCKET NO. D-2017-002-1

DELAWARE RIVER BASIN COMMISSION

Drainage Area to Special Protection Waters

**Gan Eden Estates
Groundwater Withdrawal
Town of Fallsburg and Town of Thompson,
Sullivan County, New York**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on December 3, 2024 for renewal of an allocation of groundwater and review of a groundwater withdrawal project (Application). The project was reviewed by the Commission in accordance with the administrative agreement between the DRBC and the New York State Department of Environmental Conservation (NYSDEC) dated, March 2016. The water supply facilities require approval by the New York State Department of Health (NYSDOH).

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

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to approve a withdrawal of up to 5.7 million gallons per month of groundwater from wells TW-5 and TW-6 for potable water supply and limited irrigation for a proposed 534 residential rental unit development.

2. **Location.** The project wells are completed in the Upper Walton Formation and are located in the East Mongaup River Watershed upstream from the Mongaup System Reservoirs in the Town of Fallsburg, Sullivan County, New York. The proposed subdivision is located in the Towns of Thompson and Fallsburg, Sullivan County, New York. The wells and service area are located within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware that the Commission has designated as Special Protection Waters (SPW). Specific location information has been withheld for security reasons.

3. **Area Served.** The docket holder's wells will serve only the Gan Eden Estates development as outlined on a map entitled "USGS Site Location Map" submitted with the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in Section C. DECISION of this docket.

4. **Design Criteria.** The Gan Eden Estates wells TW-5 and TW-6 will serve a proposed residential rental development which is expected to consist of 534 two- and three-bedroom townhomes, with an average and maximum daily water demand of 0.0954 million gallons per day (mgd) and 0.1907 mgd, respectively. The average daily demand is based on the docket holder's evaluation of water usage data from comparable properties as detailed in the Water Demand Study for Gan Eden Estates Report, dated July 2024 submitted with the Application. This water demand estimate is based on one of three allowable methods (Method 3) cited in "New York State Design Standards for Intermediate Sized Wastewater Treatment Systems, March 5, 2014" for calculating loading rates for such treatment systems. The peak daily demand was based on the average daily demand estimate multiplied by a peaking factor of 2. The water demand report also provided an estimate of maximum 30-day demand of 0.1125 gpd, which is equivalent to 3.49 million gallons per month (31-day month). However, under NYSDEC's TOGS 3.2.1 issued on May 25, 2017, for processing water withdrawal permit applications, Section V.B.3. states that water demands for new water systems are to be calculated using Table B-3 of NYS Design Standards for Intermediate Sized Wastewater Treatment Systems (2014). Table B-3 specifies that per-unit hydraulic loading rates for single family residences be calculated at 110 gallons per day per bedroom. This method of calculating loading rates is known as Method 1 in the standard.

The requested allocation of 5.7 mgm approved by this docket should be sufficient to meet the anticipated demands calculated by the applicant under Method 3 of the NYS Design Standards for Intermediate Sized Wastewater Treatment Systems (2014). However, under Method 1 of the same standard, the allocation will not suffice to serve the development as proposed and may require reduction of the number of residential units.

5. **Facilities.** The proposed project wells have the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
TW-5	380	82' / 8"	Permanent pump not installed	1989 Casing installed and borehole reamed to 8" diameter in 2024

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
TW-6	460	10' / 12" 31.4' / 8" 80' / 6"	Permanent pump not installed	1988 Casing reconstructed in 2023

All water service connections will be metered.

All wells will be metered.

Prior to entering the distribution system, the water will be treated by chlorination.

The project wells are above the 100-year flood elevation.

6. **Other.** Wastewater will be conveyed to an on-site wastewater treatment facility to be designed and constructed as part of the Gan Eden Estates development. Site plans submitted with the application show that the WWTP will be situated on the northeast portion of the property and will discharge treated effluent to an unnamed tributary to the East Mongaup River. Approval of the Wastewater Treatment Plant and its discharge is required by NYSDEC under the Administrative Agreement between the NYSDEC and DRBC.

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.

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. The docket holder's proposed groundwater wells and service area is located within the drainage area of the East Mongaup River above the Swinging Bridge, Mongaup Falls and Rio Reservoirs. These reservoirs are part of the Mongaup System which is listed as one of

the major surface water impoundments in Section 3.10.3A.2.g.5) and the docket holder's water supply project is exempt from the NPSPCP requirements, as outlined in Article 3.10.3A.2. of the Commission's WQR.

2. Aquifer Tests

Pumping tests completed on Wells TW-5 and TW-6 in 2016 resulted in drawdown in two piezometers and a shallow monitoring well installed in the wetlands near the test wells. Because of the hydrogeologic connection between the pumping wells and the overlying overburden aquifer withdrawals may have potentially impacted the adjoining wetlands. The interconnection with the overburden aquifer and wetlands appear to have been a result of the relatively shallow depths of the well casings and the casing at TW-5 was not grouted in place. Geophysical testing of the wells identified significant water bearing fracture sets within 61 of the ground surface. Following packer testing, which showed that wells with 80 feet of casing would still have adequate yield for the needs of the project and would also have little or no impact on the wetlands it was determined to reconstruct the wells. In 2023 and 2024, TW-5 and TW-6 were reconstructed with deeper casings (80 feet bgs) and grouted to isolate the upper water bearing fractures in the wells.

In 2023 and 2024, additional pumping tests were completed on the reconstructed wells to verify yields and identify potential impacts to the wetlands as outlined in the following sections of this docket.

TW-6 Pumping Test

On December 5, 2023 through December 8, 2023, a 74-hour constant rate pumping test was conducted to determine the sustainable yield of the well, the impacts of the pumping on the groundwater and surface water levels in the surrounding wetlands and possible impacts to off-site existing supply wells. The well was pumped at a constant rate of 135 gpm, except for the overnight period of the first day of the pumping test, when the flow rate declined to 132 gpm. Additionally, the pump was briefly shut down on two occasions to allow the repositioning of the discharge line to reduce elevation head and increase the flow rate and again later to eliminate artificial recharge from a portion of the pumping test discharge that was entering the West Stream. The pumping test was extended to compensate for the approximate 2 hours of total shutdown time needed when relocating the discharge line.

Groundwater response monitoring was conducted in the pumping well (TW-6) and onsite observation wells TW-3, TW-5 and TW-8; six offsite private wells, and one public water supply well (Well H2R) owned by the Town of Fallsburg. Additionally, a total of 14 wetland piezometers, one shallow monitoring well and two onsite waterbodies (West Stream and East Stream) were monitored during the testing period. Except for Well H2R, that was monitored periodically by the Town of Fallsburg personnel, all of the monitoring points were outfitted with pressure transducers and dataloggers.

Prior to the start of the pumping test, the water level in pumping well TW-6 was 5.80 feet below top of casing (btoc). Maximum drawdown observed in the pumping well, after

approximately 74 hours of pumping at a rate of 135 gpm, was 80.1 feet. Drawdown as a result of the pumping test was observed in TW-5 (76.9 feet), TW-8 (11.7 feet), MW-1 (1.4 feet), the Hobby Well (8.1 feet), Sand Well 1 (0.5 feet) and Sand Well 2 (2.0 feet). No drawdown as a result of the pumping test was observed in any other well. Similarly, no discernable drawdown as a result of the TW-6 withdrawals was observed in the surface water bodies or wetland piezometers. The drawdown at the Hobby Well is significant as the well is located approximately 1.3 miles from the project site.

Although the pumping water levels in well TW-6 did not achieve stabilization during the last 6 hours of the pumping test, the extrapolated drawdown did not fall below the 5 percent margin for available drawdown above the pump intakes or deepest water bearing fracture. Long-term projections based on 180-days of continuous pumping of well TW-6 at 135 gpm, with no aquifer recharge, resulted in projected total drawdown of 147.2 feet (approximately 180 feet above the deepest water bearing fracture). Following the end of the pumping test, water levels in TW-6 achieved 75 percent and 90 percent recovery within 19 hours and 54 hours, respectively.

TW-5 Pumping Test

On June 10, 2024 through June 13, 2024, a 72-hour pumping test (72.75 hours) was conducted on well TW-5 to determine the sustainable yield of the well, the impacts of the pumping on the groundwater and surface water levels in the surrounding wetlands and possible impacts to off-site existing supply wells. The pumping test started at 9:00 a.m. but was terminated due to a generator issue. The test was restarted 30 minutes later at 9:30 a.m. and pumped at a rate between 134 and 136 gpm throughout the test.

Groundwater response monitoring was conducted in the pumping well (TW-5) and onsite observation wells TW-3, TW-6 and TW-8 and two offsite private wells. It should be noted that total of 20 homeowners were solicited for monitoring, but only two agreed to participate. Additionally, a total of 14 wetland piezometers, one shallow monitoring well and two onsite waterbodies (West Stream and East Stream) were monitored during the testing period. All of the monitoring points were outfitted with pressure transducers and dataloggers.

The pumping test report indicates drawdown observed in the pumping well, after approximately 72 hours of pumping at a rate of 135 gpm was 78.36 feet. DRBC staff's evaluation of the pumping data differs slightly due to the incomplete recovery in the pumping well following the false start of the pumping test. Based on transducer data, the static water level prior to the start of the pumping test was 6.03 feet btoc. At the end of the pumping test, the water level had declined to 89.19 feet btoc for a total drawdown of 83.2 feet. Although the well had not fully recovered from the first starting attempt, it does not appear to have invalidated the late time data nor the results of the pumping test. Drawdown because of the pumping test was observed in TW-6 (77.7 feet), TW-8 (12.4 feet), and MW-1 (1.5 feet). Drawdown was also noted again in the Hobby Well, but the exact amount is unknown because the water level in the Hobby well declined to a depth lower than the transducer. A comparison of the Hobby Well drawdown data from the TW-6 pumping test and the data available from the TW-5 pumping test show almost identical response

patterns. Therefore, the total drawdown in the Hobby Well is likely the same at approximately 8 feet. No drawdown was observed in the other wells monitored during the pumping test. Similarly, no discernable drawdown because of the TW-6 withdrawals was observed in the surface water streams or wetland piezometers.

Although the pumping water levels in well TW-5 did not achieve stabilization during the last 6 hours of the pumping test, the extrapolated drawdown did not fall below the 5 percent margin for available drawdown above the pump intakes or deepest water bearing fracture. Long-term projections based on 180-days of continuous pumping of well TW-5 at 135 gpm, with no aquifer recharge, resulted in projected total drawdown of 151.6 feet (approximately 175 feet above the top of the deepest water bearing fracture). Following the end of the pumping test, water levels in TW-5 achieved 75 percent and 90 percent recovery within 16 hours and 38 hours, respectively.

The specific capacity calculated from the drawdown and pumping rates observed during the pumping tests at TW-6 and TW-5 resulted in specific capacity values of 1.69 gpm/foot of drawdown and 1.72 gpm/foot of drawdown, respectively. The average transmissivity and storativity calculated using the Cooper Jacobs solution for confined aquifers were 390 ft²/day and 4.92×10^{-5} , respectively.

The results of the pumping tests demonstrate that Wells TW-5 and TW-6 can each supply up to 135 gpm. No adverse impacts to the wetlands are anticipated. Additionally, except for the Hobby well that experienced drawdown and reported water quality issues during the pumping test period, no adverse impacts to the surrounding aquifer or domestic wells are anticipated. Long-term monitoring to assess groundwater level conditions in the wetlands and surrounding aquifer is required to confirm these conclusions.

3. Long-term Monitoring and Mitigation

Water quality impacts were reported at the Hobby Well during the 2016 pumping tests and again during the 2023 and 2024 testing of wells TW-5 and TW-6. The pumping tests produced approximately 8 feet of drawdown in the Hobby Well, which is significant provided that the well is located 1.3 miles from the subject property. The primary concerns are discoloration and sedimentation issues. Laboratory results of samples collected from the Hobby Well consistently show varying but elevated levels of manganese, iron and turbidity. The TW-5 pumping test report notes that Mrs. Hobby mentioned that the water quality at her residence has been impacted ever since the pumping test in 2016, which she believed has caused staining in the toilets and sinks of her house. On June 13, 2024 (the day the TW-5 pumping test ended), Mrs. Hobby sent pictures of her water to the docket holder's consultant showing strong discoloration. The pumping test reports indicated that periodic monitoring of the Hobby well would be appropriate if wells TW-5 and TW-6 are put into use for a continuous source of water supply for the project.

Because of reported water quality impacts that occurred in the Hobby Well during the pumping tests and elevated concentrations of iron, manganese and turbidity in water samples collected from the resident's water supply, mitigation is required. Prior to placing Wells TW-5 or TW-6 into operation, the docket holder must install and/or maintain any necessary water treatment equipment to provide potable water to the affected residence. The treatment equipment must at a

minimum provide for the removal of turbidity, iron and manganese to the concentrations recommended by the NYSDOH. Alternatively, a new water supply well that provides a reliable supply of potable water may be drilled on the resident's property. Information regarding details of the selected mitigation method and confirmation that it has been completed (to the DRBC's satisfaction) must be submitted to the Commission prior to placing Wells TW-5 or TW-6 into operation. (Condition C.3).

Staff recommend that long-term groundwater level monitoring be conducted for this project. Groundwater levels should be measured on a minimum monthly basis in the production wells and a representative number of wells surrounding the property, including the Hobby Well to estimate annual groundwater fluctuations caused by seasonal changes and/or production well pumping, and detect water level declines that may adversely affect groundwater levels in the project area. Water level monitoring shall also be conducted in monitoring well MW-1 and selected piezometers installed in the surrounding wetlands. A monitoring plan shall be submitted to the Commission for approval by the DRBC Executive Director and water level monitoring according to the approved plan must begin at least 6 months prior to the start of any withdrawals.

The docket holder must submit an annual report to the Commission that contains a monthly tabulation of withdrawals from each production well, charts and tables of water levels measured in the monitoring well and piezometer network. (Condition C.4).

4. 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.

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 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-2017-002-1 below, the project and appurtenant facilities as described 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 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).
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. Meters or other methods of measurement shall be subject to approval and inspection by the NYSDEC 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 NYSDEC annually and shall be available at any time to the Commission if requested by the Executive Director.
3. Prior to placing Well TW-5 or TW-6 into operation, the docket holder must install and/or maintain any necessary water treatment equipment to provide potable water to the affected resident. The treatment equipment must at a minimum provide for the removal of turbidity, iron and manganese to the concentrations recommended by the NYSDOH. Alternatively, a new water supply well that provides a reliable supply of potable water may be drilled on the resident's property. Information regarding details of the selected mitigation method and confirmation that it has been completed (to the DRBC's satisfaction) must be submitted to the Commission prior to placing Well TW-5 or TW-6 into operation.
4. A groundwater monitoring program is required to obtain data on groundwater conditions in the project area. Groundwater levels should be measured on a minimum monthly basis in the production wells and a representative number of wells surrounding the property, including the Hobby Well to estimate annual groundwater fluctuations caused by seasonal changes and/or production well pumping, and detect water level declines that may adversely affect groundwater levels in the project area. Water level monitoring shall also be conducted in monitoring well MW-1 and selected piezometers installed in the surrounding wetlands. A monitoring plan shall be submitted to the Commission for approval by the DRBC Executive Director and water level monitoring according to the approved plan must begin at least 6 months prior to the start of any withdrawals.

A. **Reports** - All monitoring data, including records required in Condition C.2. herein shall be submitted to the Commission in an annual report beginning one month after the first year of operation. The docket holder is encouraged to submit the annual report electronically. The report shall be prepared by a hydrogeologist and shall assess the effects of well withdrawals on the

local hydrogeologic system. This report shall include an evaluation of the monitoring data required by this docket approval and such information as deemed appropriate by the hydrogeologist or required by the Executive Director.

B. The Executive Director may modify or extend the monitoring program or temporarily suspend or modify this docket at any time if review of the hydrologic data and/or any other information indicates such action is necessary or appropriate.

5. Within 10 days of the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date. Within 30 days of the date of project completion, the docket holder shall notify the DRBC of the project completion date.

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

7. This approval of the construction related to the facilities described in this docket shall expire five 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.

8. 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 NYSDEC, 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.

9. 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.

10. The docket holder shall implement to the satisfaction of the NYSDEC, 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 NYSDEC, on the actions taken pursuant to this program and the impact of those actions as requested by the NYSDEC.

Other Conditions

11. During any month, the combined withdrawal from all well sources shall not exceed 5.7 million gallons. No well shall be pumped above the maximum rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)	WELL FIELD ALLOCATION
TW-5	132 gpm	5.7 mgm	5.7 mgm
TW-6	132 gpm	5.7 mgm	

* Based on a 24-Hour Average

Additionally, TW-5 and TW-6 shall not be operated simultaneously.

12. 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 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.

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

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

16. 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.

17. Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

18. 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).

19. 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.
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 C.F.R. 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 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.

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: December 10, 2035