

DELAWARE RIVER BASIN COMMISSION

MEETING OF DECEMBER 7, 2022

Minutes

Commissioners Present: Lisa Daniels, Pennsylvania, Chair
Jeffrey L. Hoffman, New Jersey, Vice Chair
Kenneth Kosinski, New York, Second Vice Chair
Shawn M. Garvin, Delaware
Lieutenant Colonel Ramon Brigantti, United States

DRBC Staff Participants: Steven J. Tambini, Executive Director
Kenneth J. Warren, DRBC General Counsel
Pamela Bush, Commission Secretary and Assistant General Counsel
Kristen B. Kavanagh, Deputy Executive Director
Elba Deck, Director of Finance and Administration
David Kovach, Manager, Project Review
Amy Shallcross, Manager, Water Resource Operations

Lisa Daniels called the meeting to order, introducing herself as the Acting Deputy Secretary, Office of Water Programs, Pennsylvania Department of Environmental Protection, and the Commission's chair *pro tem*, representing Governor Tom Wolf of the Commonwealth of Pennsylvania. She announced that the meeting was being held remotely, had been advertised as such on the DRBC website, and was open to the public via Zoom webinar and the DRBC YouTube channel. The meeting agenda was available on the DRBC website.

The four alternate commissioners introduced themselves as: Shawn Garvin, Secretary, Delaware Department of Natural Resources and Environmental Control (DNREC), representing Delaware Governor John Carney; Jeff Hoffman, New Jersey State Geologist, representing Governor Phil Murphy; Ken Kosinski, New York State Department of Environmental Conservation, representing Governor Kathy Hochul; and Lt. Col. Ramon Brigantti, representing the North Atlantic Division Commander of the U.S. Army Corps of Engineers, Col. John Lloyd. DRBC's Executive Director Steve Tambini, General Counsel Ken Warren, and Commission Secretary and Assistant General Counsel Pam Bush also introduced themselves.

Ms. Daniels thanked the public for attending and asked for patience if a pause were needed to address technical or procedural issues related to the remote platforms. She noted the business meeting was being recorded. She encouraged those attending via Zoom webinar to use computer audio and video and advised that they would not have camera or microphone access during the business meeting. She noted that viewers watching on the Commission's YouTube channel would not be able to participate through that platform in the open public comment session after the close of the business meeting, and added that a toll-free number provided on the DRBC website could

be used both to listen to the meeting and to participate in the open public comment session to follow. Ms. Daniels noted that the Commission's other routine business meeting and open public comment procedures were in effect and could be found on the DRBC website. Once the business meeting agenda was concluded and the business meeting adjourned, she said, Executive Director Steve Tambini would review the procedures for open public comment and would moderate an open public comment session.

Minutes. Ms. Bush said the draft Minutes of the September 8, 2022 business meeting had been circulated in advance to the Commissioners. She had received and made one correction. Absent any further changes or corrections, she said, the Minutes should be ready for adoption. Mr. Hoffman so moved, Mr. Kosinski offered a second, and in the absence of further discussion, the Minutes of the September 8, 2022 business meeting were approved by unanimous vote.

Mr. Tambini noted that he had been advised some attendees were having technical issues gaining access via Zoom webinar. He said the situation would be monitored and steps taken to resolve the issue.

Announcements. Ms. Bush announced that a meeting of the Commission's Regulated Flow Advisory Committee ("RFAC") scheduled for Tuesday, December 13, 2022 had been canceled.

Hydrologic Conditions. Water Resource Operations Manager Amy Shallcross offered a presentation on basin hydrologic conditions. Ms. Shallcross's PowerPoint slides are archived at: https://www.nj.gov/drbc/library/documents/HydrologicConditions_shallcross_120722.pdf

Hydrologic Cycle. Ms. Shallcross explained that as the agency responsible for managing the Basin's water resources, the Commission is concerned with the hydrologic cycle, which describes how and where water interacts among the atmosphere, land, and water bodies. Water evaporates from a water body, forming clouds; it eventually condenses and falls as precipitation; and when it reaches the ground, it may either run off into a surface water body or infiltrate into groundwater. Once water enters a stream or other surface water, the cycle starts anew.

Precipitation. Annually in December, highlights of the year's hydrologic cycle, as well as current hydrologic conditions, are presented. Precipitation highlights of the year included a large nor'easter in late January of 2022, which brought significant snow, and another nor'easter in mid-April, which brought heavy rain. Ms. Shallcross noted that large storms like these may result in excessive runoff when the ground is frozen. In the period from June through August, she reported, dry conditions left many areas of New Jersey in severe drought and parts of Pennsylvania under very dry conditions. An early September multi-day rain event, though not a "drought buster," provided much needed precip, and at the end of September, Hurricane Ian arrived. Ian pushed year-to-date precipitation to above normal, and in some areas well-above normal levels, while in other areas, precipitation remained in the normal to below normal range. Yearly precipitation in the Basin normally ranges between 45 and 50 inches, and with a few weeks left in 2022, Ms. Shallcross anticipated that range would be attained for the year.

Drought outlook. Presenting the NOAA—National Weather Service (“NWS”) drought monitor, Ms. Shallcross noted that conditions throughout much of the Basin were now back to normal, with northern New Jersey and a bit of southern New Jersey still showing dry conditions. Although the DRBC’s member states typically rely on a suite of different measurements to determine drought, DRBC bases the onset of its “drought operations” upon the availability of reservoir storage capable of release for streamflow augmentation. Releases from the Basin’s major reservoirs are used to maintain assimilative capacity and repel the salt front (location of the seven-day 250 ppm chloride concentration, or “isochlor”) in the Delaware River Estuary. With the exception of Delaware, each of the Basin states declared some degree of drought status during 2022. As of the December 7 meeting date, the seasonal drought outlook for much of the Basin indicated normal conditions were expected.

Streamflow. When precipitation falls or runs off into surface water bodies and streams, it can be measured as streamflow. Ms. Shallcross said that as of December 7, 2022, many areas of the Basin were experiencing normal or above normal streamflows. She presented a map showing the locations of normal, above normal and below normal flows that day, followed by a hydrograph showing observed flow, average flow, and median flow over the previous calendar year at Trenton. Ms. Shallcross identified the year’s major storm events on the hydrograph, pointing out how those contributed to increased flows in the river. She also noted that water from New York City’s reservoirs at the top of the Basin is released to maintain a flow target of 1,750 cubic feet per second (“cfs”) at Montague, New Jersey. The Montague objective helps to ensure sufficient water from the upper Basin flows downstream to support the objective of 3,000 cfs at Trenton. The Trenton objective is also supported by releases from federal reservoirs located in Pennsylvania. Ms. Shallcross noted that much of the winter storage is in the form of snowpack, and as the snow melts, flows in the river increase. As illustrated by the Trenton hydrograph, she noted that melting of snowpack, coupled with the April nor’easter, produced high flows, peaking at over 100,000 cfs during April 18-19. These gradually decreased, and the absence of rain over the summer months led to a very dry summer that required directed releases from the Basin’s reservoirs to maintain the flow objectives.

Reservoir storage. Reservoir storage is used to augment flow in the main stem of the Delaware River. In the lower Basin, water is stored in three reservoirs owned and operated by the U.S. Army Corps of Engineers (the “Corps”), all located in Pennsylvania: Beltzville Reservoir in the Lehigh Valley, Blue Marsh Reservoir in the Schuylkill Valley, and F.E. Walter Reservoir in Luzerne County, also within the Lehigh Valley. From these reservoirs, DRBC may direct releases to augment flows. Recreational releases from F.E. Walter, made according to a schedule established by the Corps, also support flow in the main stem. In the upper Basin, releases from the City of New York’s three reservoirs—Cannonsville, Pepacton, and Neversink—are directed by the River Master (an employee of the U.S. Geological Survey) to maintain the flow objective at Montague.

As of the meeting date, usable storage in the lower Basin was 100 percent at Beltzville, 77 percent at Blue Marsh, and near the winter pool elevation at F.E. Walter. Combined storage in the three New York City Delaware Basin reservoirs was 187 billion gallons (“BG”), or 70 percent. This was 13.5 BG lower than the long-term median, 50.9 BG lower than combined storage at the same time

in 2021, and 73.7 BG above “drought watch.” Storage levels in the individual reservoirs as of the meeting date were: Cannonsville, 55 percent; Pepacton, 75 percent; and Neversink, 87 percent.

Ms. Shallcross noted that New York City had been diverting more water than usual in preparation for a shutdown of its Delaware Aqueduct for repairs. Although slated to begin during 2022, the shutdown and repair project had been postponed because of dry conditions and the need for additional preliminary infrastructure work. Ms. Shallcross said that had dry conditions persisted through early fall, there was a chance the Basin would have entered DRBC “drought watch” status in October. However, once the Basin began to receive rain in early September, the amount of water diverted and released downstream from the City’s reservoirs was balanced by inflow, and a drought watch condition was narrowly averted.

Salt front. One of the major drivers for the development of a Trenton flow objective has been high salinity in the Delaware River Estuary during periods of drought. The Trenton flow objective ensures a certain amount of freshwater inflow into the Estuary to repel salinity. The “salt front,” which is the location at which a chloride concentration of more than 250 mg/l is sustained for seven (7) days, is used as an indicator of salinity intrusion. U.S. Geological Survey (“USGS”) gauges located along the river provide information used in calculating salinity. For the most part, water in the Estuary at Philadelphia, Pennsylvania and Delran, New Jersey is fresh enough for use by industry and for drinking water serving the Philadelphia metropolitan area and central New Jersey. However, if the saltwater-freshwater interface migrates too far upstream, the intakes at these locations may be compromised. On the meeting date, the salt front was at River Mile 69.4, slightly upstream of the typical location for September, River Mile 69. The salt front has remained within the median range.

Groundwater. Groundwater conditions in the Basin are measured by eleven indicator wells. The water levels in these wells reflect the amount of precipitation received over the previous several months. Ms. Shallcross presented a slide showing the well locations and their status (below normal, normal, above normal) during the months of September, October, and November, 2022, pointing out that when groundwater recharge resumed in September after a dry summer, indicator wells returned to normal levels except within particularly dry areas of New Jersey and part of New York. As of the meeting date, groundwater levels reflected recharge from precipitation over the preceding 90 days.

Drought outlook. As of the meeting date, the NWS seasonal drought outlook predicted above-normal temperatures or a greater than normal chance of above normal temperatures for the region for December, January, and February. Normal amounts of precipitation were predicted for the same time period. Ms. Shallcross noted that some meteorologists predicted a La Niña year, which would mean warmer and wetter conditions than normal; however, the NWS was not in agreement with that prediction.

Additional information. Current versions of some of the graphics presented by Ms. Shallcross may be accessed on the DRBC Hydrologic Snapshot for Flow and Drought Management at www.hydrosnap.drbc.net. The Commission’s website also includes a flood portal, where users can

access flood information, sign up for alerts from the NWS, and find links to flood forecasts and FEMA projects. The portal is located in the Hydrological Information tab on DRBC's homepage and can be accessed directly at <https://www.nj.gov/drbc/hydrological/river/portal-flood.html>.

Executive Director Report. Mr. Tambini's report is summarized below.

Attendance. Mr. Tambini noted that some registrants were still experiencing technical difficulties in accessing the meeting *via* Zoom. He reminded everyone that the meeting was also being broadcast on the DRBC YouTube channel, which could be accessed without registration, and he suggested that anyone who had registered for the open public comment session (to follow the day's business meeting) who was having difficulty joining *via* Zoom reach out to DRBC staff for assistance in working through the technical issues. Alternatively, he suggested going to the current link on the DRBC website to try again. Mr. Tambini also noted that data from Zoom indicated that excluding the participants on screen, 77 were at that moment attending the meeting.

Revised Water Quality Standards for Estuary Aquatic Life. The Commissioners' directive (by Resolution No. 2017-4) for revising aquatic life water quality standards for a portion of the Delaware Estuary and for continuing to improve dissolved oxygen conditions near Philadelphia, Pennsylvania and Camden, New Jersey, in part charged the DRBC staff with undertaking a series of studies in close consultation with DRBC's member states, EPA, and interested stakeholders. Mr. Tambini said the studies had been a high staff priority. Now complete in draft form (except where denoted below as final), the study reports were now available on the DRBC website. The report titles were:

1. *Linking Aquatic Life Uses with Dissolved Oxygen Conditions in the Delaware River Estuary*
2. *Analysis of Attainability: Improving Dissolved Oxygen and Aquatic Life Uses in the Delaware River Estuary*
3. *Modeling Eutrophication Processes in the Delaware River Estuary: Three-Dimensional Water Quality Model*
4. *Modeling Eutrophication Processes in the Delaware River Estuary: Three-Dimensional Hydrodynamics Model*
5. *Social and Economic Factors Affecting the Attainment of Aquatic Life Uses in the Delaware River Estuary*
6. *Nitrogen Reduction Cost Estimation Study: Final Summary Report.*

Mr. Tambini said the six reports were the culmination of years of intensive effort involving scientific, engineering, and technical expertise across multiple disciplines. He reiterated that they were developed in cooperation with the DRBC state and federal co-regulators and stakeholders and with a high degree of transparency. Each phase of the Commission's work was presented to the DRBC Water Quality Advisory Committee ("WQAC"), on which dischargers, the scientific community, environmental groups, and co-regulators, including the EPA, were members and

participants. The study results were supported by robust data, state-of-the-art hydrodynamic and water quality models, and cost and socioeconomic evaluations, and the draft reports were delivered by the target date set by the Commission.

Mr. Tambini recognized and offered appreciation for the hard work, expertise, and professionalism of the DRBC technical staff as they completed the body of scientific and engineering work required to provide a solid foundation for establishing water quality standards consistent with Clean Water Act requirements. He added that the work constituted more than a foundation for new standards; it provided the Basin community with a road map for achieving real improvements in water quality and ecosystem health by elevating dissolved oxygen in the most urbanized reach of the Estuary. He said he was especially proud that his colleagues, a group of people whose professional and ethical standards are first class, performed this work for the most part in-house, with limited but exceptional staff resources, in significant part during the covid pandemic when state and DRBC funding was in jeopardy, and when the DRBC concurrently delivered other milestone work for managing, protecting, and improving the Basin's water resources. Mr. Tambini also thanked the Commissioners, their agency staffs, and the EPA staff for their continued technical support throughout the process.

He noted that the *Delaware River Basin Compact*, the Commission's organic statute, recognizes the waters and related resources of the Delaware River Basin as regional assets vested with local, state, and national interests. In fully meeting Clean Water Act goals and the threats posed by climate change, Mr. Tambini pointed out, the Delaware Basin faces challenges similar to those of other important interstate water bodies such as the Long Island Sound and the Chesapeake Bay. But the water resources of the Delaware River Basin do not benefit from even close to the same amount of federal investment as these near-by waterways. Each year, the EPA and other federal agencies provide tens of millions of dollars in federal support to interstate programs for just those two water bodies, to say nothing of others around the country. Mr. Tambini thanked the DRBC Commissioners from Delaware, New Jersey, New York, and Pennsylvania for their continued support of signatory party funding for the Commission's operating expenses. He recognized and thanked the New Jersey and Pennsylvania departments of environmental protection for providing supplemental funding over the course of several years to support the development of revised aquatic life uses and criteria for the Estuary.

NGO Petition. On a related matter, on December 1, the U.S. Environmental Protection Agency ("EPA") issued its response to a petition submitted on April 29, 2022 by a group of non-governmental organizations ("Petitioners") seeking to bypass the DRBC's ongoing processes and compel the EPA to commence a separate action to revise water quality standards for aquatic life in the Estuary. Because of the significant progress DRBC has already made in close collaboration with the EPA and state co-regulators to update these standards, the Commission viewed the petition as unnecessary. Nevertheless, Mr. Tambini said, the DRBC respects the EPA Administrator's determination of December 1, 2022 (the "Determination"). Mr. Tambini encouraged interested parties to read the Determination rather than rely on recent headlines and the Petitioners' talking points, which he said misrepresented several EPA and DRBC positions.

Mr. Tambini highlighted the following from the “Determination”:

- On page 1, EPA confirms “that revised water quality standards to protect aquatic life in zones 3, 4, and upper 5 . . . of the Delaware River Estuary in New Jersey, Delaware, and Pennsylvania are necessary to satisfy the requirements of the CWA.” [EPA uses the acronym “CWA” for the federal Clean Water Act throughout its Determination.]
- On page 7, EPA describes the basis for its decision by referring to DRBC’s September 2022 draft *Analysis of Attainability* report. EPA states, “the analyses set forth in the draft analysis of attainability indicate that the . . . use of propagation is attainable under the CWA and the WQS for the specified zones must be revised accordingly.” [EPA uses the acronym “WQS” for “water quality standards” throughout its Determination.]
- On page 11, EPA makes several important points, including these: “EPA acknowledges and appreciates DRBC’s and your states’ [meaning the Basin states] commitment to updating the WQS for the specified zones of the Delaware River Estuary.” And, “This Determination does not preclude DRBC from proceeding with its own rulemaking effort, and EPA welcomes the opportunity to discuss whether DRBC’s March 2025 deadline could be accelerated.”

Mr. Tambini underscored that these statements make clear EPA’s Determination did not supersede DRBC’s authority. He added:

- For those interested parties who were struggling to interpret and report on the rulemaking schedule set forth in the Determination, the relevant paragraph, on page 11, states, “In this particular case, given the readily available information that DRBC and other stakeholders have generated, EPA believes that 12 months is a reasonable timeframe to develop *proposed* federal regulations” (emphasis added). Mr. Tambini reiterated, “proposed,” not “final,” regulations.

Mr. Tambini identified one more statement he deemed noteworthy in the Determination concerning the schedule and next steps:

- The Determination states “in the event that DRBC adopts . . . and then EPA approves revised WQS that sufficiently address this Determination before EPA proposes or promulgates federal WQS, EPA would no longer be obligated to propose or promulgate those federal WQS.”

Finally, Mr. Tambini pointed out, the EPA Determination ends on a theme that the DRBC and states have for their part emphasized throughout their joint effort on this project:

- “EPA is committed to continuing to work with DRBC and the member states to ensure that protective aquatic life uses and associated water quality criteria are supported by science and law.”

Mr. Tambini said the DRBC had no significant objection to the Determination and welcomed the EPA's continued engagement in this effort, adding that the DRBC was committed to continuing to work jointly with the EPA and state co-regulator agencies in Delaware, New Jersey, and Pennsylvania to develop water quality standards using sound science to meet the goals of the Clean Water Act and the Commission's Comprehensive Plan. He said the DRBC is equally committed to doing so through a transparent process that engages all concerned stakeholders. He concluded by stating that the DRBC has had a successful 61-year history of working collaboratively and delivering regulatory policy to protect and significantly improve water quality in the interstate waters of the Delaware River Estuary and is committed to continuing this critical work.

Comments on DRBC's Aquatic Life Use Draft Reports. Mr. Tambini further informed the Commissioners that during the previous week, the DRBC had received comments from members of the Commission's Water Quality Advisory Committee ("WQAC"), Estuary dischargers, and other interested parties on DRBC's technical, engineering, and socioeconomic draft reports listed above. He said DRBC appreciated the thoughtful and in-depth comments provided.

He made clear that the process for reviewing the comments and finalizing the reports would not impact the priority tasks underway or the schedule for issuing proposed rules revising the water quality standards for Zones 3, 4 and upper Zone 5 of the Estuary to include fish propagation as a designed use and establish water quality criteria fully protective of that use.

Mr. Tambini reiterated EPA's Determination that "the analyses set forth in the draft analysis of attainability indicate that the . . . use of propagation is attainable under the CWA and the WQS for the specified zones must be revised accordingly." He said the DRBC did not expect that conclusion to change, adding that the DRBC's draft reports were not released for rulemaking purposes but concerned the technical basis for eventual rulemaking. When rulemaking occurs, he said, the public will have ample opportunity to comment on any rules proposed and any supporting information used as the basis of support for the rulemaking.

Mr. Tambini reiterated that the staff's technical reports had been posted on the Commission's website, and he encouraged anyone seeking an unfiltered, deeper dive into the science to read them. He repeated that the science developed by the DRBC illuminated the path forward by showing not only that water quality capable of supporting propagation in the urban Estuary is attainable, but by providing essential information about the measures required to achieve it. These will entail significant policy and regulatory changes and significant investment, primarily in improved point-source wastewater treatment. Mr. Tambini said he expected that interested parties would continue to raise their voices about how best to achieve real water quality improvements and desired outcomes, and he expressed confidence that all perspectives would be heard and considered during any rulemaking or implementation planning process conducted by the DRBC, member states, or the EPA. He added that the DRBC and co-regulators would work together to revise the water quality standards for aquatic life in the Estuary as set forth in the DRBC's resolutions and in the recent EPA Determination.

In conclusion, Mr. Tambini said, the Commissioners by Resolution No. 2017-4 initiated the next chapter in the story of improving water quality in the Delaware River Estuary. Through cooperation, joint action, infrastructure investment, and public funding, he said, co-regulators, dischargers and the Basin community brought this water body from a condition of chronic hypoxia to one of vastly improved ecosystem health. Mr. Tambini said the water quality story of the Estuary was still being written, and as in the past, the next chapter and the next level of water quality improvements would require collective effort. He encouraged interested parties to shift, or, at least, expand their focus beyond attempting to divide policymakers who share the same Clean Water Act goals and who are advancing along the same regulatory path. He asked all concerned to instead contribute to the process by working together, not only to update the water quality standards, but to help address the need for funding and investment to implement these and other water resource needs in the Basin, and in particular, to seek solutions to the affordability challenges that will face the most impacted and overburdened Estuary communities.

New staff members. Chris McCann, who was formerly the legislative director for U.S. Congresswoman Madeleine Dean of Pennsylvania, was hired as DRBC's new government affairs lead. Jeremy Conkle, Ph.D., formerly an associate professor at Texas A&M University in Corpus Christi, would be joining DRBC as a senior toxicologist.

Community service. Mr. Tambini acknowledged the DRBC staff for continuing the tradition of supporting two well-deserving organizations during the holiday season: the Salvation Army of Trenton's Angel Tree program and the Mercer Street Friends Food Bank, serving areas that include Trenton in Mercer County, New Jersey and Morrisville in Bucks County, Pennsylvania.

Concluding his report, Mr. Tambini wished everyone a happy, healthy, and safe holiday season.

Recognition and Pearl Harbor Remembrance by LTC Brigantti. Lt. Colonel Brigantti commended DRBC technical staff on the significant work they had performed over the Commission's history, and specifically over the previous couple of years, in expanding the body of knowledge on Basin water quality, and for their helpful partnership with the Corps.

Lt. Col. Brigantti also recognized that December 7 is National Pearl Harbor Remembrance Day. He read aloud the following passage from President Biden's proclamation of that morning:

On National Pearl Harbor Remembrance Day, we honor the memories of the 2,403 service members and civilians whose lives were cut short on that tragic December morning. We reflect on the resilience of America's Armed Forces, who withstood the attack and built the most capable fighting force the world has ever known. In the wake of tragedy, these brave women and men—the Greatest Generation—answered the call to defend freedom, justice, and democracy across the Pacific, throughout Europe, and around the globe. Today, we carry forward their spirit of unity and their enduring resolve to protect the United States against those who seek to do us harm.

Recognition and Delaware Day Observation by Secretary Garvin. The chair next recognized Secretary Garvin. Speaking on the matter of updating the Estuary aquatic life use standards, Secretary Garvin noted that there had been some delays, but he commended DRBC staff for bringing the Commission back on track on the issue. He said he appreciated and understood EPA’s interest in engaging, and that he believes all are committed to working together collaboratively and avoiding duplication of effort. He was hopeful that a resolution could be reached as quickly as possible for the resource and for all who rely on it.

Secretary Garvin concurred in Lt. Colonel Brigantti’s recognition of National Pearl Harbor Remembrance Day. He added that in Delaware, December 7 is also proudly celebrated as Delaware Day, the day the State of Delaware ratified the Constitution—the first state to do so.

General Counsel’s Report. Mr. Warren reported on three litigation matters, which he noted were the same three litigation matters pending at the time of the Commission’s September meeting.

Yaw vs. DRBC. This lawsuit, challenging the DRBC’s regulation prohibiting high volume hydraulic fracturing in the Basin, was commenced by State Senators Gene Yaw and Lisa Baker, the Pennsylvania Republican Senatorial Caucus, and certain municipalities. The case was dismissed by the U.S. District Court for the Eastern District of Pennsylvania on grounds that the plaintiffs lacked standing to bring their claims. The plaintiffs appealed the dismissal to the Court of Appeals for the Third Circuit, where the case was fully briefed and argued. On September 16, 2022, the Third Circuit affirmed the decision of the district court dismissing the case. The Third Circuit concluded that appellants (who were the plaintiffs) had not alleged the types of injuries that can support standing under Article 3 of the U.S. Constitution. Mr. Warren noted that the Third Circuit’s decision would likely end this litigation.

Wayne Land and Mineral Group (WLMG) vs. DRBC. A landowner commenced this case in 2016 in the U.S. District Court for the Middle District of Pennsylvania challenging the DRBC’s authority under Section 3.8 of the *Delaware River Basin Compact* to review high volume hydraulic fracturing (“HVHF”) projects. Following the DRBC’s adoption in 2021 of a regulation prohibiting HVHF in the Basin, the DRBC filed a motion to dismiss WLMG’s case as moot. With the advice of the court, the parties agreed to stay the matter until the *Yaw* litigation was decided. Based on the Third Circuit’s September 22 decision in *Yaw*, the DRBC suggested to the parties that the WLMG case be dismissed without prejudice. WLMG rejected this approach. The status report submitted to the court in early December noted that WLMG wants the court to decide the pending motion to dismiss the case as moot. It is likely that will be the next step in the *WLMG* litigation.

Delaware Riverkeeper Network (DRN) vs. DRBC. In this case, DRN appealed the December 9, 2020 decision of the Commission affirming the DRBC’s issuance of a docket to Delaware River Partners for the Gibbstown Logistics Center Dock 2 project. The Dock 2 project involves dredging and construction of a deep water berth at the Gibbstown Logistics Center in Gibbstown, New Jersey. The case was fully briefed in the United States District Court for the District of New Jersey on cross motions for summary judgement. As of the meeting date, the parties were awaiting the decision of the District Court on the summary judgement motions.

A Resolution to amend the Comprehensive Plan, Water Code, and Special Regulations regarding importations of water into and exportations of water from the Delaware River Basin and discharges of wastewater from high volume hydraulic fracturing (“HVHF”) and HVHF-related activities.

Mr. Tambini noted that because the Commissioners had received a copy of the draft resolution in advance of the meeting, unless any one of them requested otherwise, he would paraphrase and summarize the *Whereas* clauses rather than reading them verbatim. After doing so, Mr. Tambini read the *Be it resolved* section of the resolution into the record in its entirety, noting that elements of this section consisted of findings and determinations that also appeared in the proposed rule text. Because Mr. Tambini’s presentation closely tracked the resolution, it is not repeated here. Upon concluding his presentation, Mr. Tambini offered the resolution for the Commissioners’ consideration.

Mr. Hoffman moved for adoption of the resolution as proposed. Mr. Kosinski offered a second. In the absence of further discussion, Resolution No. 2022-04 to amend the Comprehensive Plan, Water Code, and Special Regulations regarding importations of water into and exportations of water from the Delaware River Basin and discharges of wastewater from high-volume hydraulic fracturing and HVHF-related activities was approved by a vote of four in favor and none opposed. The United States abstained.

The chair recognized Mr. Tambini. Mr. Tambini advised that the final resolution, rule text, “redlines” comparing the existing and proposed rules to the final rules, the Commission’s Comment and Response document, FAQs, and other relevant information would all be posted on the Commission’s website as quickly as possible after the day’s meeting.

Mr. Tambini thanked the Commissioners for their thoughtful deliberations and policy decisions to protect the Basin’s water resources from the risks posed by high volume hydraulic fracturing (“HVHF”). He said the rule amendments adopted that day, combined with those approved in February 2021, addressed these risks in two powerful and targeted ways—first, by prohibiting HVHF in hydrocarbon-bearing formations anywhere in the Delaware River Basin, and second, by prohibiting the discharge of wastewater from HVHF and HVHF-related activities to the Basin’s lands and waters. With these strong measures, he advised, the Commissioners had distinguished themselves and the DRBC as national leaders in setting comprehensive regulatory protections for the Basin’s shared water resources. In addition, he said, they had strengthened the DRBC’s policies concerning the transfer of water and wastewater into and out of the Basin. Mr. Tambini emphasized that these strong safeguards were based on sound science, were properly focused on the DRBC’s mission to manage and protect the Basin’s water resources, and were rooted in the authorities conferred on the DRBC by the *Delaware River Basin Compact*. Collectively, he said, “We take pride in the fact that our stakeholder community deeply values the Basin’s water resources and advocates for their protection.” For more than a decade, he said, advocates passionately exhorted the Commission to address the threats to water resources posed by HVHF. Addressing the Commissioners, he said, “You listened, and together through the DRBC, you acted boldly and responsibly.” He added that the Commissioners would undoubtedly hear more on this issue from stakeholders during the open public comment session following the meeting. He recognized that

many who advocate for wider causes had signaled that in their view the DRBC's bold measures of that day and the previous year would not be enough.

Mr. Tambini thanked the Basin community for their heartfelt engagement on this issue, stating, "Whether you have provided written comments or attended meetings, your time and perspectives were valued as you'll see when you read the rule text and accompanying documents, as the Commission made certain changes that many commenters requested." He reminded those who have made DRBC the focus of their advocacy that while the Commission has broad authority over the Basin's water resources, that authority is not unbounded. The Commission is limited, for example, in regulating activities outside the Basin's geographic boundary, "a fact that zeal cannot change." He added, "I can nevertheless say with confidence that the Commission's state and federal members are working to support policies to develop a clean energy future, and I encourage our stakeholders to continue addressing your concerns beyond the scope of the DRBC through the multiple political, legislative, and regulatory avenues we are privileged to have in our democratic system."

Addressing the staffs of member agencies and the DRBC, Mr. Tambini said, "Thank you for your years of dedicated and painstaking work. Developing, promulgating, and defending robust policies and rules for addressing the risk to water resources posed by high volume hydraulic fracturing was no small task." He noted that the comment and response document published by the Commission in February 2021 was "one of the most comprehensive technical reviews of the impacts of HVHF on water resources we know of, numbering 476 pages and supported by over 1,000 technical references." Likewise, he said, the 128-page comment and response document adopted in support of the Commissioner's final rulemaking that day was a comprehensive and detailed guide to understanding the DRBC action.

Mr. Tambini reiterated that stakeholders with more questions about the new rule would find the key documents and relevant materials on the Commission's website soon after the close of the meeting. He invited stakeholders to remain engaged on the many water resource issues in the DRBC portfolio, whether by serving on one of the Commission's advisory committees, participating in public hearings, signing up for email and social media updates, or simply being mindful stewards of the Basin's water resources in their daily lives.

In conclusion, Mr. Tambini reminded attendees of the standards of respectful conduct that govern DRBC's open public comment sessions. He thanked the Commissioners for their support and leadership on the critically important issue of protecting the Basin's water resources from the potential impacts of HVHF, and for their commitment to sound management of these shared resources.

Resolution for the Minutes authorizing the Executive Director to secure professional services to identify and pursue federal funding opportunities. Director of Communications and External Affairs Elizabeth Brown explained that the proposed resolution, a copy of which had been circulated to the Commissioners in advance of the meeting, would extend an existing agreement for professional services to identify and pursue federal funding opportunities.

Ms. Brown explained that the United States had been a full signatory party and voting member of the DRBC, and a full participant in the Commission's decision making and coordinating activities since enactment of the Compact in 1961. Yet, despite express authorizations and direction by Congress through the Compact and subsequent water resources statues, the federal government had contributed its share of signatory party funding for the Commission only once since fiscal year 1998. Ms. Brown noted that while failing to fund the Commission's operating expenses, the federal government had increased its contributions to other water resource programs in the Basin.

Ms. Brown identified two instances in which federal investment in the Basin had grown while federal signatory party funding for the DRBC was lacking. First, she noted, federal funding increased from 2018 through 2021 for the Delaware River Basin Restoration Program administered by the United States Fish and Wildlife Service. This program also received significant additional funding through the Infrastructure Investment and Jobs Act enacted by Congress with bipartisan support in 2021. Ms. Brown noted that DRBC is a strong supporter of the Delaware River Basin Restoration Program, but must compete alongside other entities, including non-governmental organizations, for grant funding under it. Second, she noted that the Delaware Estuary Program, a non-regulatory program administered by the U.S. Environmental Protection Agency as part of the National Estuary Program, also received substantial supplementary funding under the Infrastructure Investment and Jobs Act. DRBC has long been a supporter of the Delaware Estuary Program and strongly encourages its continued support, but DRBC is eligible for Delaware Estuary Program funds only as a contractor to the host organization.

Ms. Brown noted that on December 8, 2021, the Commissioners had adopted a Resolution for the Minutes authorizing the Executive Director to retain the professional services of a firm to assist in identifying and pursuing opportunities to secure federal support for the DRBC's operations and activities. During 2021, the firm had helped DRBC to:

- secure the inclusion, in a report accompanying fiscal year 2023 congressional funding bills, of language directing that signatory party funding for the DRBC be included in future Army Corps budgets; and
- advance "community project funding" for the DRBC in a fiscal year 2023 congressional funding bill that as of the Commission's meeting date awaited congressional action.

Ms. Brown noted that during 2023, additional federal legislation, policies, and opportunities might be considered that would be relevant to DRBC's mission, including measures to address climate change, water quality challenges, and infrastructure needs. The resolution would authorize and direct the Executive Director to extend DRBC's contract with Van Scoyoc Associates for the professional services described in the resolution for a period not to exceed 12 months to advance the Commission's federal funding objectives. Noting that the cost per month of these services was capped and no federal money would be used to pay for them, Ms. Brown recommended that the Commissioners approve the resolution as proposed.

Mr. Kosinski so moved. Secretary Garvin offered a second, and without further discussion. the Resolution for the Minutes authorizing the Executive Director to secure professional services to

identify and pursue federal funding opportunities was approved by a vote of four in favor and none opposed. The United States abstained. The text of the resolution follows:

RESOLUTION FOR THE MINUTES

A Resolution for the Minutes authorizing the Executive Director to extend an agreement for professional services to identify and pursue federal funding opportunities.

WHEREAS, the Delaware River Basin Compact provides that the United States is a full signatory party and voting member of the Delaware River Basin Commission; and

WHEREAS, since the Commission's inception in 1961, the United States has participated fully in Commission decision-making and has helped to coordinate among the multiple federal agencies whose actions affect the water resources of the Basin; and

WHEREAS, with one exception, during each fiscal year since FY 1998, the federal government has provided no signatory party funding to support the Commission's operations, despite express authorizations and direction by Congress through: the Delaware River Basin Compact (U.S. Public Law 87-328); the Water Resources Development Act of 2007 (P.L. 110-114, Sec. 5019); and the Water Resources Reform and Development Act of 2014 (P.L. 113-121, Sec. 4001); and

WHEREAS, since 2016, the United States has supported the Delaware River Basin Restoration Program (the "DRBRP"), a non-regulatory initiative managed by the United States Fish and Wildlife Service focused on habitat conservation and restoration within the Basin's geographic boundaries; and

WHEREAS, over the period from FY 2018 – 2021, the United States has appropriated funds for the DRBRP in the amount of \$30.7 million; the President's FY 2022 Budget included an additional \$10 million in funding for the DRBRP; and the Infrastructure Investment and Jobs Act, recently passed by Congress with bipartisan support, included another \$26 million in special funding for the DRBRP; and

WHEREAS, DRBC must compete with non-governmental organizations for DRBRP grant funds; and

WHEREAS, the National Estuary Program ("NEP") managed by the U.S. Environmental Protection Agency ("EPA") provides annual federal financial support for the Delaware Estuary Program, a non-regulatory program hosted by the Partnership for the Delaware Estuary ("PDE"), a non-governmental organization; and the recently enacted Infrastructure Investment and Jobs Act included supplemental funding in the amount of \$950,000 per year over 5 years for each NEP, including the Delaware Estuary Program; and

WHEREAS, DRBC is eligible for NEP funds only as a contractor to PDE; and

WHEREAS, in accordance with a Resolution for the Minutes dated December 8, 2021, the Executive Director on December 21, 2021 entered into an agreement with Van Scoyoc Associates, Inc. ("VSA") for professional services including consultation, advice and advocacy with respect to federal funding, legislation, regulations, and federal agency

policies that align with the Commission’s mission to manage, protect, and improve the water resources of the Delaware River Basin and that potentially could support the Commission’s fiscal operations or program activities; and

WHEREAS, with VSA’s assistance, the Commission secured the inclusion of report language in the Senate and House fiscal year 2023 funding bills to support the inclusion of DRBC funding in future budgets of the United States Army Corps of Engineers (the “Corps”); and

WHEREAS, with VSA’s support, and in the absence of an appropriation through the Corps budget, the Commission during 2022 advanced Community Project Funding for the DRBC through H.R. 8294, a package of six fiscal year 2023 funding bills, including for Energy and Water Development and Related Agencies (the federal fiscal FY 2023 budget is still pending action by Congress); and

WHEREAS, during calendar year 2023 additional congressional legislation and federal policies and programs will be considered on matters central to the Commission’s mandate—the planning, development, conservation, utilization, management, and control of the water resources of the Delaware River Basin to meet present and future needs—including measures to address climate change, water quality challenges, and infrastructure needs; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Executive Director is hereby authorized and directed to extend for a period not to exceed twelve months the Commission’s agreement with VSA for professional services as described herein. The objectives of such extension shall continue to include: to renew clear congressional authorizations for DRBC funding; to ensure inclusion of DRBC funding in the budgets of executive branch agencies and the President; and to secure one or more congressional appropriations. The services may also include support for national, regional, and watershed-based federal policies and programs that align with the DRBC’s mission to manage, protect, and improve the water resources of the Delaware River Basin.
2. The cost per month of these services shall not exceed \$8,333.
3. No federal monies shall be used to pay for these services.

Resolution for the Minutes to amend the *Administrative Manual—Bylaws, Management and Personnel*. Director of Finance and Administration Elba Deck explained that the Commission periodically updates its *Bylaws, Management and Personnel* to improve or clarify internal procedures and policies. She said that amendments in four areas of the *Bylaws* were recommended, as follows:

- clarification of the process for authorization of expenditures (Section 4.4—Purchasing);
- revision of the language on conflicts of interest to extend it to all procurement procedures, not merely those supported by federal funds (Section 5.10—Conflicts of Interest);

- update and clarification of policy prohibiting discrimination, harassment, or hostile environments in the workplace (Section 5.12—Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace); and
- update of the procedure for submission and approval of charges to a P-card when a receipt is missing (Section 9.5—Submission and Approval of Charges to the P-card).

Ms. Deck noted that the proposed resolution would adopt the revised language provided in Attachment A of the resolution, and that a copy of the resolution, including the attachment, had been provided to the Commissioners in advance of the meeting. Ms. Deck recommended that the Commissioners approve the resolution as proposed, adding that the amendments would be effective immediately upon adoption.

Mr. Hoffman so moved, Mr. Kosinski offered a second, and without further discussion, the Resolution for the Minutes Amending the Administrative Manual – Bylaws, Management and Personnel was approved by unanimous vote. The text of the resolution follows, and the attachment to the resolution is provided as Attachment A of these Minutes.

RESOLUTION FOR THE MINUTES

A Resolution for the Minutes amending the *Administrative Manual—By-Laws, Management and Personnel*.

WHEREAS, the Commission periodically updates its *Administrative Manual—By-Laws, Management and Personnel* (“Bylaws”) to streamline procedures and improve personnel policies; and

WHEREAS, the Executive Director in consultation with the Commission staff has recommended amendments to the current Bylaws at Sections 4.4, “Purchasing”; 5.10, “Conflicts of Interest”; 5.12, “Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace”; and 9.5, “Submission and Approval of Charges to the P-Card” to: (i) clarify the process for authorization of expenses included in the applicable Annual Current Expense and Capital Budgets adopted by the Commission pursuant to the Compact; (ii) apply the Commission’s conflicts of interest policy to all procurement processes, not merely those supported by federal funds; (iii) update policies regarding discrimination or harassment; and (iv) update the procedure for reporting P-Card expenses when a receipt is missing; and

WHEREAS, the Commission has determined that its best interests are served by the revisions to the Bylaws described above; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. Sections 4.4, 5.10, 5.12, and 9.5 of the *Administrative Manual—Bylaws, Management and Personnel* are hereby amended to incorporate the revisions shown Attachment A.

2. The revised *Administrative Manual—Bylaws, Management and Personnel* shall be effective upon the date of adoption set forth [above].

Resolution for the Minutes to authorize repairs to the front exterior wall and main entrance of the Commission’s headquarters building on a “public exigency” basis. The Commission’s headquarters building in West Trenton, New Jersey is over 50 years old. In October of 2022, staff observed leaks in the building’s main conference room, and upon further inspection, observed rusted steel lintels, missing mortar, and cracks running through a dozen courses of brick in the exterior northeast wall above the windows and through sixteen courses of brick between windows. Ms. Deck said the proposed resolution, retroactive to October 14, 2022, would authorize the Executive Director to engage a contractor to perform masonry repairs on a public exigency basis.

Contractor A. Pennacchi & Sons, Co. of Hamilton, New Jersey (“Pennacchi”) performed an inspection of the building’s northeast wall on October 11, 2022 and on that date advised staff that the wall was at risk of collapse and unlikely to withstand the cold temperatures and freeze-thaw cycles of the coming winter. Pennacchi provided a two-part quote in the amount of \$19,880 for stabilization and restoration of the exterior wall and \$13,200 for repairs to the limestone posts, along with caulking and sealants around the front entrance, for a total of \$33,080.

Section 14.9 of the *Delaware River Basin Compact* provides that a contract for the construction, reconstruction, or improvement of any facility at a cost in excess of \$10,000 “shall be advertised and let upon sealed bids to the lowest responsible bidder.” The same section provides that the competitive bidding requirement may be waived “whenever: [among other circumstances] . . . the public exigency requires the immediate delivery of the articles or performance of the service”

Ms. Deck noted that a staff memo attached to the resolution, and which, along with the resolution, had been furnished to the Commissioners in advance of the December 7 meeting, described the excellent references furnished by Pennacchi, including by managers of government buildings. She added that the Commission’s approved FY 2023 expense budget included adequate funds for the necessary repairs. She added that staff had briefed the alternate Commissioners on the matter during a call on October 20, 2022, during which the sense of the group was that the repairs should be undertaken without delay. She recommended that the Commissioners approve the resolution authorizing and directing the Executive Director, retroactive to October 14, 2022, to issue a purchase order to A. Pennacchi & Sons for the repairs described above to preserve the structural integrity of the northeast wall of the building to ensure the safety of the building’s occupants and visitors, adding that in accordance with Section 14.9 of the Compact, the resolution would waive the competitive bidding requirements of that section.

Mr. Hoffman so moved, and Secretary Garvin seconded his motion. Without further discussion, the Resolution for the Minutes to authorize repairs to the front exterior wall and main entrance of the Commission’s headquarters building on a “public exigency” basis was approved by unanimous vote. The text of the resolution follows, and the referenced staff memo, dated October 14, 2022, is provided as Attachment B of these Minutes.

RESOLUTION FOR THE MINUTES

A Resolution for the Minutes to authorize masonry repairs at the Commission's headquarters building on a "public exigency" basis.

WHEREAS, the Commission's headquarters building located at 25 Cosey Road, West Trenton, New Jersey, was constructed in 1970 and is now over 50 years old; and

WHEREAS, during October 2022 DRBC staff observed leaks into the building's main conference room (the Goddard Room) through the building's northeast-facing windows; on the exterior brick wall, they noted rusted steel lintels, voids (missing mortar) between bricks, and cracks running vertically through a dozen courses of brick above one of the windows and through sixteen courses between two windows; and

WHEREAS, masonry contractor A. Pennacchi & Sons, Co. of Hamilton, New Jersey ("Pennacchi & Sons") performed an inspection on October 11, 2022, and advised that the wall was at risk of collapse and unlikely to withstand the cold temperatures and freeze-thaw cycles of the coming winter; and

WHEREAS, Pennacchi & Sons provided a two-part quote on the necessary repairs, including the sum of \$19,880 for stabilization and restoration of the exterior wall, and the sum of \$13,200 for repairs to the limestone posts and caulking and sealants in the front entrance, for a total cost of \$33,080; and

WHEREAS, Section 14.9 of the *Delaware River Basin Compact* provides in part that a contract for "the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars . . . shall be advertised and let upon sealed bids to the lowest responsible bidder"; and further provides that the Commission "may . . . waive the provisions of this section requiring competitive bids whenever . . . (2) the public exigency requires the immediate delivery of the articles or performance of the service;" and

WHEREAS, as set forth in detail in the attached staff memo dated October 14, 2022, A. Pennacchi & Sons has provided services to multiple federal, state, and local entities in the region and has provided excellent references from two of them; and

WHEREAS, the management scenario for the Commission's fiscal year 2023 budget includes sufficient funds to cover the proposed repairs, even allowing for additional contingent costs equal to ten percent of the quoted amount; and

WHEREAS, the staff informed the DRBC alternate Commissioners of this matter during a call on October 20, 2022, and elicited a sense of the group that the repairs should be undertaken without delay; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Executive Director is hereby authorized and directed to issue a purchase order or orders to A. Pennacchi & Sons, Co. for the repairs described above.

2. In accordance with Section 14.9(2) of the Compact, the competitive bidding requirements of that section are waived in view of the exigent need for repairs to preserve the structural integrity of the northeast wall of the DRBC headquarters building and ensure the safety of the building's occupants and visitors.

3. This authorization is retroactive to October 14, 2022.

Project Review Docket Applications. Project Review Manager David Kovach reported that 19 draft dockets had been subjects of a duly noticed public hearing on November 9, 2022. Of these, 16 were located in the Commonwealth of Pennsylvania, two in the State of New Jersey, and one in the State of New York. Seven involved wastewater discharges; 11 were for water withdrawals; and one (docket item 19) involved the construction of a trail bridge crossing within a recreation area included in the Commission's Comprehensive Plan. Consideration of two of the dockets was being postponed to allow additional time for review: agenda items 16 for the Delaware County Regional Water Quality Control Authority (DELCORA) diffuser and tunnel project, and 18 for the E. Tetz & Sons quarry expansion project. Mr. Kovach noted that DRBC had received substantial public comment on the E. Tetz & Sons draft docket but none on the DELCORA docket.

Mr. Kovach provided updates on item 19—the Montgomery County Trail Bridge project, as follows:

- The “Proceedings” portion of the docket had been edited to note that a Pennsylvania Dam Safety and Encroachment Act (“Chapter 105”) permit and a permit under Section 404 of the Clean Water Act for the placement of fill were issued for the project;
- Condition 4 of the docket had been amended to include the sum of \$1,033 as a project review fee, based on total staff hours of review time; and
- A requirement that the project review fee be remitted to the DRBC within 30 days of the docket approval date had been added.

He reported that DRBC received substantive comments from a Newland Township supervisor on docket agenda item 15, which would approve a water withdrawal to serve the Aqua Pennsylvania Spring Run system. Written responses to those comments were set forth in a comment and response document provided to the Commissioners in advance of the December 7 meeting.

Mr. Kovach explained that the withdrawal for Aqua Pennsylvania's Spring Run system would renew the DRBC's approval of Embreeville wells 1R and 2, based on pumping tests conducted on the wells at separate times. The commenter was concerned that the wells were not tested simultaneously, and as a result, that the DRBC could not conclude that no adverse impacts on the local hydrologic system were expected to result from operation of the wells. The commenter also expressed concern that none of the four neighboring domestic wells utilized for groundwater response monitoring in the Well 1R pumping test were monitored during the Well 2 pumping test.

Mr. Kovach summarized the staff's response. He said that single well pumping tests are optimal with respect to evaluating and accurately calculating aquifer parameters for each well. A simultaneous test was not warranted in this instance because the monthly withdrawal from any combination of the system may not exceed the monthly system allocation of 37 million gallons per month (mgm) or 829 gallons per minute (gpm). Thus, if Embreeville wells 1R and 2 were used simultaneously to withdraw the entire monthly system allocation of 37 million gallons per month (mgm), the combined maximum pumping rate of the two wells could not exceed 829 gpm. This rate is approximately 83 percent of the rate at which the Well 1R pumping test was conducted, which was 996 gpm. No adverse impacts were observed during the Well 1R pumping test. Neither were any observed during the Well 2 pumping test.

Mr. Kovach added that the Spring Run system docket requires a long-term monitoring program to obtain additional data on groundwater conditions in the project area. The monitoring network includes two wells. The 900 Stargazers Road well and the Tenant House well, both owned by the Township, will be monitored on a long-term basis during operation of Embreeville Wells 1R and 2 to confirm the expectation that no adverse impacts to the local hydrologic system will occur. This outcome is expected based not only on the pumping test results, but on experience in the operation of these sources and their precursors to date.

Mr. Kovach next addressed the commenter's concern that four neighboring domestic wells were not monitored during the Well 2 pumping test. He explained that prior to testing of each well, a theoretical zone of influence was predicted to determine the maximum distance from the well at which water level response monitoring would be practical. In the case of the Well 1R pumping test, five domestic private wells were located within the calculated zone of influence. All five were monitored during the Well 1R pumping test, and none showed discernible effect from pumping of Well 1R at a rate of 996 gpm. No private domestic wells were found to be within or near the predicted zone of influence for the Well 2 pumping test, so none were monitored. However, Embreeville 1, the precursor to Well 1R, and the Tenant House well, owned by the Township, were located closest to the predicted zone of influence and *were* monitored during the Well 2 pumping test. Observed drawdown in Well 1R was two feet, and no discernible drawdown was observed in the Tenant House well. These results confirmed that the zone of influence did not approach the neighboring private domestic wells and that monitoring of those wells was not warranted.

Mr. Kovach concluded his summary by recommending that the Aqua Pennsylvania Spring Run System docket be approved as proposed.

He added that DRBC had received no comments on the other dockets presented for the Commissioners' consideration that day, and recommended that the Commissioners approve the draft dockets identified as items 1 through 15, 17 and 19 on the meeting agenda.

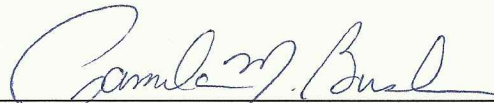
Mr. Kosinski so moved, and Mr. Hoffman offered a second. Without further discussion, docket items 1 through 15, 17 and 19 were approved by unanimous vote. A description of each of the

applications for dockets approved during the business meeting of December 7, 2022 is provided as Attachment C of these Minutes.

Adjournment. Mr. Kosinski moved for adjournment. Mr. Hoffman seconded his motion, and all concurred. The meeting was adjourned at approximately 12:00 noon.

Audio Recording. Audio recordings of the public hearing of November 9, 2022 and business meeting of December 7, 2022 are on file with the Commission Secretary.

Open Public Comment. Upon adjournment of the business meeting, Mr. Tambini hosted an open public comment session of approximately one hour for off-the-record comment by stakeholders on water resource issues affecting the Basin.



Pamela M. Bush, Esquire
Commission Secretary and Assistant General Counsel

ATTACHMENT A

TEXT OF AMENDMENTS TO SECTIONS 4.4, 5.10, 5.12, AND 9.5 OF THE *ADMINISTRATIVE MANUAL – BY-LAWS, MANAGEMENT AND PERSONNEL*

(Attachment to the Resolution for the Minutes of December 7, 2022,
amending the *Administrative Manual—By-Laws, Management and Personnel*)

Editor's Note:

Additions are shown in redline with underscore.

Deletions are shown in ~~redline with strikethrough~~.

A series of 4 asterisks (* * *) denotes chapters, sections or paragraphs
to which no changes were made.*

Administrative Manual
BY-LAWS, MANAGEMENT AND PERSONNEL

Adopted and Effective December 13, 1961

Revised through December 7, 2022

* * * *

CHAPTER 4
BUDGETS AND FINANCIAL PROCEDURES

* * * *

4.4. Purchasing. The Executive Director shall install and maintain a purchasing system conforming to Section 14.9 of the Compact.

4.4 A. ~~Except in accordance with Section 4.4 C. of this chapter, S~~standing authorization exists for purchasinges made consistent with the pertinent annual current expense and capital budgets approved-adopted in accordance with Section 13.3(b) of the Compact and with 4.2 B. of this Manual and the budget operation set forth in Section 4.3—Budget Operation of this Manual.

4.4 B. When sealed bids, notice and publication are not required by the Compact, the purchasing agent shall, whenever feasible, seek and obtain informally at least three bids or proposals for any purchase exceeding \$2,500. A record of all such informal bids shall be made and maintained by the purchasing agent.

4.4 C. No purchase ~~exceeding-valued at~~ \$50,000 ~~or more~~ shall be made without ~~prior-express~~ approval by ~~resolution of~~ the Commission, either by line item or other mention in the pertinent annual expense and capital budgets adopted pursuant to Section 13.3(b) of the Compact or by separate resolution.

4.4 D. *Conflicts of Interest.* Chapter 5—Personnel Policies, Section 5.10—Conflicts of Interest, paragraph D—~~Federal~~—Procurement Standards, concerning conflicts of interest in the Commission’s selection, award, or administration of contracts ~~supported by federal awards,~~ is incorporated by reference in this Section 4.4.

* * * *

CHAPTER 5
PERSONNEL POLICIES

* * * *

5.10 Conflicts of Interest.

* * * *

5.10 D. ~~Federal-Procurement Standards.~~ No Commission employee, officer, or agent may participate in the selection, award, or administration of a contract ~~supported by a federal award~~ if the employee, officer, or agent has a real or apparent conflict of interest.

The foregoing standard would include the situation where the employee, officer, or agent, any member of the employee's, officer's, or agent's immediate family, any partner of the employee, officer, or agent, or an organization which employs or is about to employ any of the parties listed in this paragraph has a financial or other interest in or a tangible personal benefit from a firm considered for the contract.

Employees, officers, and agents of the Commission may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, except for items of nominal value and in accordance with procedures that may be established by the Commission.

Violations of this Section 5.10 D will result in disciplinary action, which may include termination of the employee's, officer's, or agent's position with the Commission.

* * * *

5.12 Policy Prohibiting Discrimination, Harassment or Hostile Environmental in the Workplace.

* * * *

5.12 F. *Employee Responsibilities.*

Any employee who believes that they have been subjected to any form of prohibited discrimination/ harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination is encouraged to promptly report the incident(s) to their manager or directly to either the Personnel Officer or the Commission Secretary. All employees are expected to cooperate with investigations undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

Any employee who believes that they have been subjected to any form of prohibited discrimination ~~/or~~ harassment, including sexual harassment, or who witnesses others being subjected to such harassment or discrimination, or who observes acts of discrimination or harassment by a Commission employee, is encouraged to promptly report the incident(s) to their ~~manager~~immediate supervisor or branch director ~~or directly to either,~~ the Personnel Officer, ~~or~~ the Commission Secretary, or any other director or manager to whom the employee feels comfortable bringing such complaint. If a complaint is brought to a manager, the manager must report the complaint to the Personnel Officer or another director. All employees are expected to cooperate with investigations undertaken pursuant to this policy. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

5.12 G. *Supervisor Responsibilities.*

~~Managers Employees with direct reports~~ should make every effort to maintain a work environment that is free from any form of discrimination ~~/or~~ harassment, and are expected to take all allegations of discrimination ~~/or~~ harassment, including sexual harassment,

~~seriously, and to immediately refer the matter to the individual(s) responsible for receiving such complaints. Employees with direct reports who observe acts of discrimination toward, or harassment of, another employee, or who receive any complaints from another employee alleging discrimination or harassment, or who observe acts of discrimination or harassment by a Commission employee, are required to promptly report the incident to the Personnel Officer or Commission Secretary. All complaints will be reviewed and prompt and appropriate remedial action will be taken to address any substantiated claim. Managers receiving complaints of unlawful discrimination/harassment must immediately advise the Personnel Officer of the complaint.~~

* * * *

5.12 I. *Prohibition against Retaliation.*

Retaliation against any employee who alleges that they were the victim of discrimination/ or harassment or against any employee who provides information in the course of any investigation into claims of unlawful discrimination/ or harassment in the workplace is prohibited by this policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy will not be subjected to adverse employment consequences based upon such involvement or be the subject of retaliation. Any suspected retaliation or intimidation should be reported to one of the persons identified above in Section 5.12 F.

* * * *

CHAPTER 9
PURCHASING CARD

* * * *

9.5 Submission and Approval of Charges to the P-Card.

* * * *

9.5 D. *Missing or lost transaction receipt; personal charge.*

1. When a receipt is missing ~~or lost, and the value of the associated charges exceeds 10.00,~~ the P-cardholder shall provide the Director of Finance and Administration with a completed "~~Lost Missing~~ Receipt Form." that has been signed by the P-cardholder's supervisor. When a receipt is missing and the value of the charges is \$10.00 or less, a Missing Receipt Form is not required, but the P-cardholder should indicate on their expense report that the receipt is missing and include a detailed explanation of the purchase. If the value of the charges reflected on the missing or lost transaction receipt exceeds \$10.00, the P-cardholder's supervisor must approve and sign the Lost Receipt Form in advance of providing the Lost Receipt Form to the Director of Finance and Administration.

* * * *

ATTACHMENT B

**STAFF MEMO DATED OCTOBER 14, 2022, RE
URGENT NEED FOR RESTORATION AND STABILIZATION
OF EXTERIOR FRONT WALL**

(Attachment to Resolution for the Minutes of December 7, 2022,
to Authorize Repairs to the Front Exterior Wall and Main Entrance of the Commission's
Headquarters Building on a "Public Exigency" Basis)

Delaware River Basin Commission

Memorandum

To: Steve Tambini, Executive Director, DRBC

CC: DRBC Commissioners

FROM: Elba Deck, Director of Finance and Administration; Pam Bush, Assistant General Counsel

Date: October 14, 2022

Subject: Urgent Need for Restoration and Stabilization of Exterior Front Wall

The Commission's headquarters building located at 25 Cosey Road, West Trenton, New Jersey, was constructed in 1970 and is now over 50 years old.

In October 2022, staff observed leaks through the building's northeast facing windows into the Goddard Conference Room. On the exterior brick wall, which is load bearing, they observed rusted steel lintels, missing mortar, and cracks running vertically through a dozen courses of brick above one of the windows and through sixteen courses between two windows (see photos below).

Masonry contractor A. Pennacchi & Sons of Hamilton, New Jersey performed an inspection on October 11, 2022. The firm's representative informed staff that the wall is at risk of collapse and unlikely to withstand the cold temperatures and freeze-thaw cycles of the coming winter.

The firm promptly submitted a two-part proposal for repairs (copies attached), including the sum of \$19,880 for stabilization and restoration of the exterior wall, and the sum of \$13,200 for repairs to the limestone posts, caulking and sealants in the front entrance. The total cost of the necessary repairs is \$33,080.

Section 14.9—Purchasing of the *Delaware River Basin Compact* provides in part that a contract for “the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars . . . shall be advertised and let upon sealed bids to the lowest responsible bidder.” However, the same section further provides:

The commission may suspend and waive the provisions of this section requiring competitive bids whenever: (1) the purchase is to be made from or the contract to be made with the federal or any state government or

any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them; (2) the public exigency requires the immediate delivery of the articles or performance of the service; (3) only one source of supply is available; . . . (5) the services to be provided are of a specialized or professional nature.

Because the condition of the exterior front wall poses a risk to the building's structural integrity and to the safety of its occupants, the public exigency in this instance warrants immediate performance of the needed repairs.

Although no open bulk purchase contract exists between A. Pennacchi & Sons and "the federal or any state government or an agency or subdivision thereof[,]” the company has provided services to such federal, state, and local entities as the McGuire Air Force Base Annex Complex, New Jersey State Capitol Annex Building, Mercer County Port Commission, Trenton Parking Authority, City Hall of Trenton, Trenton Police Department, State of New Jersey Prison and Hamilton Township Library.

Staff contacted two references. Mr. Pedro Alvares, Engineer-in-Charge of maintenance operations at New Jersey State Prison, described A. Pennacchi & Sons as "excellent, on time, on budget, an expert in the field, and [he] would highly recommend them." John Morris, Engineer-in-Charge of maintenance at the State of New Jersey's Ann Klein Forensic Center, said A. Pennacchi & Sons was "a great vendor" and "great communicator," completed its work within budget, and went "above and beyond" by performing additional tasks on the firm's own initiative based on need, without an additional charge.

The cost of the repairs was included in the Commission's Fiscal Year 2023 Current Expense Budget, approved on June 8, 2022.

For the foregoing reasons, the staff recommends that a purchase order be issued promptly to A. Pennacchi & Sons, Co. for repairs of the front exterior wall and limestone entrance, and that the Commissioners be asked to approve a resolution at the quarterly business meeting in December, retroactively waiving the competitive bidding process in accordance with Section 14.9 of the Compact.

PHOTOGRAPHS (October 2022)

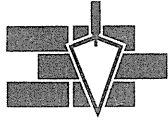
Top: Water stain on granite sill in Goddard room

Middle: Exterior northeast facing wall

Bottom: Exterior northeast facing wall showing vertical crack through 16 courses of brick







A.PENNACCHI & SONS, INC

Masonry Restoration Company

119 Buttonwood Street

HAMILTON, NEW JERSEY 08619

Trenton (609) 394-7354 • Hamilton (609) 584-0500

Fax (609) 584-0505

CONTRACTOR'S LIC. #13VH011384001

PROPOSAL SUBMITTED TO Delaware River Basin Commission		PHONE 609-883-9500	DATE October 11, 2022
STREET 25 State Police Dr. East		JOB NAME Masonry Restoration Services	
CITY, STATE and ZIP CODE West Trenton, NJ		JOB LOCATION Front Facade	
ARCHITECT 4 man crew	DATE OF PLANS Same	State October 2022	JOB PHONE

We Propose hereby to furnish material and labor complete in accordance with specifications below, for the sum of:

Nineteen Thousand, Eight-Hundred Eighty***** dollars (\$ **19,880.00**).

Payment to be made as follows:

payment due upon completion

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature _____

Note: This proposal may be withdrawn by us if not accepted within _____ days.

We hereby submit specifications and estimates for:

SCOPE OF WORK: EXTERIOR RESTORATION & STABILIZATION OF THE FRONT BRICK WALL FACADE.

PHASE A) Replace the steel window angle lintels of the headers where needed to the front exterior. Install new steel lintels, prime and paint all the front lintels with Coronado Industrial Coating Paint- Color Tudor Brown. Caulk and seal the window lintel joints with Tremco Urethane. Caulk and seal the window perimeters of the front facade windows (12 windows)

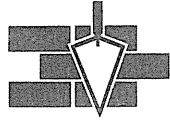
PHASE B) Replace spalled brick work of the original brick work. Restore and brick point the stress cracks and openings of the front facade.

Acceptance of Proposal The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance: _____

Signature _____



A.PENNACCHI & SONS, INC

Masonry Restoration Company

119 Buttonwood Street

HAMILTON, NEW JERSEY 08619

Trenton (609) 394-7354 • Hamilton (609) 584-0500

Fax (609) 584-0505

CONTRACTOR'S LIC. #13VH011384001

PROPOSAL SUBMITTED TO Delaware River Basin Commission		PHONE 760-937-2022 cell	DATE October 11, 2022
STREET 25 State Police Dr. East		JOB NAME Exterior Caulking Services & Front Steps	
CITY, STATE and ZIP CODE West Trenton, NJ		JOB LOCATION Front Exterior Entrance	
ARCHITECT 4 man crew	DATE OF PLANS Same	Start October 2022	JOB PHONE

We Propose hereby to furnish material and labor complete in accordance with specifications below, for the sum of:

Thirteen-Thousand, Two-Hundred***** dollars (\$ **13,200.00**).

Payment to be made as follows:

payment upon completion

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature _____

Note: This proposal may be withdrawn by us if not accepted within _____ days.

We hereby submit specifications and estimates for:

SCOPE OF WORK: LIMESTONE POSTS & ENTRANCE CAULKING AND SEALANTS OF THE LIMESTONE FRONT ENTRANCE.

Repair all limestone where spalling and deterioration is happening. Remove all decayed sealants of the limestone joints. Mask perimeter joints, install backer rod, caulk all joints with Tremco Urethane sealants. Color "Limestone Grey". Install a concave joint.

Restore and re-point the front bluestone steps, rout the stone joints and re-point all joints.

Acceptance of Proposal The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance: _____

Signature _____

ATTACHMENT C

DESCRIPTION OF PROJECTS APPROVED BY THE COMMISSION DURING THE BUSINESS MEETING OF DECEMBER 7, 2022

Background. Projects subject to Commission review in accordance with the Delaware River Basin Compact and Commission regulations must have the Commission's approval in the form of a docket, permit or resolution (collectively, "docket").

The Commission's project review process takes six to nine months to complete, and the public is informed of the status of project applications by a variety of means during that period:

- Each project for which an application is received is added to the "Project Review Status Report" maintained at https://www.nj.gov/drbc/programs/project/project-review_status-pg.html. This report, updated approximately once a month, includes the applicant's name and project location, a description of the proposed project, the docket number assigned to the project, and the name of the staff member reviewing the project.
- A list of applications received is compiled and posted as a "Notice of Applications Received" (NAR) at <https://www.nj.gov/drbc/programs/project/nar.html>, approximately once per month.
- Anyone interested in receiving notices about projects under review as the notices are posted on the Commission's website, may sign up for the Commission's "Most Recent Notice of Applications Received" listserv at <https://www.nj.gov/drbc/contact/interest/index.html>.
- Members of the public seeking additional information about a project may contact the staff member reviewing the project or arrange by appointment to review the relevant Project Review file at any time that is mutually convenient for the staff and the party.
- Approximately six weeks before the Commission's scheduled public hearing date, draft dockets are circulated to the Commission's members for review and comment by the appropriate state and federal agencies.
- Ten days prior to the hearing date, the hearing notice, along with draft dockets, is posted on the Commission's website. A public hearing and meeting notice also appears in the Federal Register and certain state registers in accordance with the respective schedules of these publications. The register notice directs readers to the Commission's website for links to the draft dockets available for comment.

Written comment on hearing items is ordinarily accepted until 5 p.m. on the Monday of the week following the public hearing.

At the Commission's regularly scheduled public meetings, the Commissioners may approve, disapprove, or postpone consideration of any docket for which a hearing has been completed. Approved dockets are posted on the Commission's website as quickly as possible following the

date on which the Commission acted. Delay of a few days may occur to complete clerical work, particularly in instances in which the Commissioners approve a docket with modifications.

The projects are customarily considered in three categories—Category A, project renewals with no substantive changes; Category B—project renewals with substantive changes; and Category C—projects not previously reviewed by the Commission. Descriptions of the projects (based on the applications received, which may vary from final projects) for which the Commission issued approvals on March 9, 2022 are presented below.

A. Renewals with No Substantive Changes (Items 1 through 14).

1. Boyertown Foundry Co, D-1985-080 -5. An application to renew the approval of an existing groundwater withdrawal of up to 3.54 mgm to supply water to the applicant's industrial cooling system from existing Well No. 1A. The project well is completed in the Leithsville Dolomite Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Swamp Creek Watershed in Boyertown Borough, Berks County, Pennsylvania.
2. Aqua Pennsylvania, Inc., D-1986-042 CP-3. An application to renew the approval of the existing 2.2 mgd Media WWTP and its discharge. Effluent limits from PADEP and the Commission are currently based upon an average annual flow of 1.8 mgd. The WWTP will continue to discharge treated effluent to Ridley Creek at River Mile 84.1 - 7.5 (Delaware River - Ridley Creek) via Outfall No. 001, in Upper Providence Township, Delaware County, Pennsylvania.
3. Newton Town, D-1990-111 CP-3. An application to renew the approval of an allocation of 10.85 million gallons per month (mgm) of groundwater from Well PW-1 and an importation of water of up to 38.75 mgm from Morris Lake and Wallkill River (Pine Swamp) located in the Hudson River Basin for use in the docket holder's public water system. The Town of Newton is not requesting an increase in the groundwater allocation from that contained in its prior DRBC approval. Well PW-1 is completed in Allentown Dolomite in the Paulins Kill Watershed. The project well and area served is located within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters (SPW), in the Town of Newton, Sussex County, New Jersey.
4. Mount Pocono Municipal Authority, D-1991-027 CP-3. An application to renew approval of the docket holder's existing 0.50 million gallons per day (mgd) WWTP and its discharge. The WWTP will continue to discharge up to 0.4 mgd treated effluent to Forest Hills Run between November 16 and March 14 and discharge up to 0.5 mgd treated effluent and land discharge via spray irrigation between March 15 and November 15 when conditions are suitable for land discharge. At times of unsuitable conditions between March 15 and November 15, the WWTP will discharge treated effluent to Forest Hills Run at River Mile 213.0 - 10.6 - 4.4 - 4.9 (Delaware River - Broadhead Creek - Paradise Creek - Forest Hills Run), via Outfall No. 001, located within the drainage area to the Middle Delaware Special Protection Waters (SPW), in Mount Pocono Borough, Monroe County, Pennsylvania.

5. Monroe Energy, LLC, D-1996-052 -3. An application to renew the approval to withdraw up to 1,705 million gallons per month (mgm) of surface water from the docket holders existing Delaware River surface water intake. Water is used for industrial cooling, hydrostatic testing, and fire suppression. The requested allocation is a reduction from the previously approved allocation of 4,701.667 mgm. The project intake is located at River Mile 80.64 in Delaware River Water Quality Zone 4 in the Borough of Trainer, Delaware County, Pennsylvania.
6. BlueTriton Brands, Inc., D-1997-046 -5. An application to renew the approval to continue to withdrawal up to 9.3 million gallons per month (mgm) of spring water from Springs 1 and 3 at Arrowhead Springs Farm for the purpose of water bottling and to divert a maximum of 2.232 mgm of Spring 3 overflow to supply the applicant's trout hatchery house. The withdrawal project is located in the Mill Creek Watershed in Millcreek Township, Lebanon County, Pennsylvania.
7. Crayola, LLC., D-2000-033 -3. An application to renew the approval of an existing groundwater withdrawal and injection project, to continue a withdrawal of up to 16.53 mgm from existing Well Nos. 1 and 4. The withdrawal and injection support industrial processes, geothermal cooling, and replenishment of an on-site landscape pond. The project wells are located in the Epler Formation in the Bushkill Creek Watershed in Forks Township, Northampton County, Pennsylvania within the drainage area to the section of the main stem Delaware River known as the Lower Delaware, which is classified as Special Protection Waters (SPW).
8. Northampton Borough Municipal Authority, D-2004-013 CP-3. An application to renew the approval of the existing Northampton Borough Municipal Authority water filtration plant (WFP) and its discharge. The WFP will continue to treat up to 8.0 mgd for public water supply and discharge up to 0.150 mgd of process water and filter rinse backwash to Spring Creek, which is a tributary of the Lehigh River, at River Mile 183.66 - 24.7 - 0.1 (Delaware River - Lehigh River - Spring Creek), within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters (SPW), in North Whitehall Township, Lehigh County, Pennsylvania.
9. River Road Utilities, Inc., D-2006-038 -4. An application to renew approval of the applicant's existing 0.066 million gallon per day wastewater treatment plant (WWTP) and its discharge. No modifications to the WWTP are proposed. The WWTP will continue to discharge to the Delaware River Water Quality Zone 1D at River Mile 204 within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters (SPW), in Upper Mount Bethel Township, Northampton County, Pennsylvania.
10. Morrisville Municipal Authority, D-2008-006 CP-4. An application to renew the approval of an existing discharge of up to 0.15 mgd of filter backwash from the applicant's 6.0 mgd water filtration plant (WFP). The WFP will continue to discharge to Water Quality Zone 1E at River Mile 134.6 (Delaware River) via Outfall No. 001. The WFP is located within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the

Commission has designated as Special Protection Waters (SPW), in Lower Makefield Township, Bucks County, Pennsylvania.

11. Bluestone Country Club, D-2011-024 -2. An application to renew the approval of an existing groundwater withdrawal of up to 4.0 mgm to irrigate the applicant's golf course from existing Well 10, Pumphouse Well and Maintenance Well. The project wells are completed in the Stockton Formation. The requested allocation is not an increase from the previous allocation. The project is located in the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (SEPA GWPA) in the Wissahickon Creek Watershed in Whitpain Township, Montgomery County, Pennsylvania.
12. Lower Bucks County Joint Municipal Authority, D-2012-001 CP-3. An application to renew approval of the docket holder's existing WFP and its related. The WFP treats up to 16 million gallons per day (mgd) for public water supply and discharges 0.7 mgd of filter backwash water via Outfall No. 003 and intermittently discharges up to 0.48 mgd of sedimentation basin supernatant via the same outfall noted as MP103. The WFP will continue to discharge treated effluent to Water Quality Zone 2 of the Delaware River at River Mile 122.3, located in Tullytown Borough, Bucks County, Pennsylvania.
13. Eagle Point Power Generation LLC, D-2012-010 CP-2. An application to renew the approval of a surface water withdrawal of up to 110.234 million gallons per month (mgm) of surface water and consumptively use up to 68.4 mgm of surface water from Intake No. DK-3 for cooling purposes at the existing 237-megawatt Eagle Point Cogeneration Facility. The existing withdrawal is located on the Delaware River in Water Quality Zone 4 in West Deptford Township, Gloucester County, New Jersey.
14. Kimberly-Clark Corporation, D-2012-012 CP-2. An application to renew the approval of an existing surface water withdrawal with a decrease in allocation from 341 mgm to 225.15 mgm to provide water to the applicant's facility for industrial cooling and process purposes. This reduction in water use is due to the replacement of its coal fired cogeneration facility with a natural gas fired system. The project is located in the Delaware River Watershed within Water Quality Zone 4 in the City of Chester, Delaware County, Pennsylvania.

B. Renewals with Substantive Changes (Items 15 through 17)

15. Aqua Pennsylvania, Inc., D-1989-040 CP-3. An application to renew the approval of an existing groundwater withdrawal with an increase in allocation from 23.1 mg/30 days to 37.0 mgm to supply the applicant's Spring Run public water supply distribution system from Wells Nos. UG-1, UG-2, UG-3, UG-8, UG-9, and UG-10 which were previously approved and Wells Embreeville Nos. 1R and 2 that were not previously approved. Well Embreeville 1R is a new well and will replace pre-Compact Well Embreeville No. 1. Wells Nos. UG-1, UG-2, UG-3, UG-8, UG-9, and UG-10 are completed in the Wissahickon Formation and Embreeville Wells Nos. 1R and 2 are completed in the Cockeysville Marble. The project is located in the Commission's designated Southeastern Pennsylvania Ground Water Protected Area (SEPA GWPA), except for Embreeville Wells Nos. 1R and 2, in the West Branch Brandywine Watershed in West Bradford and Newlin Townships, Chester County, Pennsylvania.

16. Delaware County Regional Water Quality Control Authority - DELCORA, D-1992-018 CP-5.
This docket was postponed to allow additional time for review.

17. United Corrstack LLC - DBA DS Smith Reading Mill, D-1993-040 -4. An application to approve the renewal of an existing withdrawal project and approve an increase in allocation from 17.856 million gallons per month to 29.02 mgm of groundwater from previously approved Well PW-1 and new well PW-2R. Water is used for industrial processes at the applicant's existing paper products manufacturing facility. The wells are completed in Cambrian carbonate rocks of the Lebanon Valley Sequence and are located in the Schuylkill River Watershed in the City of Reading, Berks County, Pennsylvania.

C. Projects Not Previously Reviewed by the Commission (Items 18 and 19)

18. E. Tetz & Sons, D-2020-001 -1. *This docket was postponed to allow additional time for review.*

19. Montgomery County, D-2022-002 CP-1. An application to approve a 185-foot-long pedestrian/bicycle/equestrian bridge across the Wissahickon Creek and 2.25 miles of porous pavement trail to serve as a connector in the existing Wissahickon and Cross County Trail Network to improve access and safety for users. The bridge is located in the Fort Washington State Park, a recreation project area included in the DRBC Comprehensive Plan. The project is located in Whitmarsh and Springfield Townships, Montgomery County, Pennsylvania.