



***Appalachian Utilities, Inc.
1674 Park Ave.
Lock Haven, PA 17745***

June 8, 2018

Dear State Representative,

I would like to take this opportunity to sincerely thank you for your dedication to help our community reduce unnecessary and redundant water regulations that come with overwhelming fees and outrageous demands made by the Susquehanna River Basin Commission (SRBC). Our small company and our small community are currently in need of urgent help from you with these regulatory issues to keep the water rates down for the customers. This over regulation does affect 3.5 million Pennsylvania residents that live and work in the basin. The SRBC is forcing unnecessary economic hardship on Pennsylvania residents (specifically public water rate payers) living in the Susquehanna River Basin, public water supplies and private businesses. Below you will find my testimony and a number of documents that will begin to convey our limited experience with this commission. Please contact me anytime with additional questions or for clarification about the information presented in this testimony. I would be happy to schedule a time to meet in your office to discuss these issues and many more that have been brought to my attention.

Appalachian Utilities, Inc. (Appalachian) is a small public water supply in central Pennsylvania. We do not produce nonessential widgets for China, we do not sell bulk water to Nestle and we do not move ANY water out of the Susquehanna River Basin. If we did move water out of the basin then it is possible that some of the demands made by the SRBC might begin to make sense to protect “water users” in the basin. Do not be fooled by this false narrative that they desire “to protect water users”, this is untrue and does not make sense, “water users” don’t have any issues in our area but we are still being forced to spend \$200,000 or more on SRBC demands. If you want to know the purpose of SRBC regulations just find out how much money they have and you will find your answer.

Appalachian maintains a public water supply and distribution system which consists of 3 source groundwater wells that have always been permitted by the PADEP (**Attachment 1**), 30 miles of water main line and provides water service to 1,450 accounts in the towns of Avis and Woolrich, and portions of Pine Creek and Dunstable Townships. Roughly 3,000 Pennsylvania residents, their homes, dozens of businesses, two schools, three senior living facilities, one factory and the public fire suppression system in two communities rely on our maintenance work for a reliable and safe water supply.

After countless hours of research by Appalachian and several meetings with Professional Geologists regarding hydro-geologic work that will be required by the SRBC, it has become evident that Appalachian is facing expenditures estimated to exceed \$200,000-\$300,000 or more to fully comply with SRBC demands and pay for the upcoming PAPUC rate case to recover these massive expenses incurred due to the SRBC. These costs will reoccur every 15 years according to SRBC policy and permit expiration. Please note that PADEP permits for our 3 source wells have no expiration date (**Attachment 1**). The PADEP required aquifer testing prior to issuing the permit that Appalachian holds for these three wells and that testing has worked perfectly for our source wells that have been 100% reliable over the past 20 years. The aquifer testing that was previously performed by Appalachian and the PADEP was completed by Pennsylvania licensed Professional Geologists and reviewed/approved by several PADEP Hydrogeologists in 1997 however these facts do not mean anything to the SRBC. Our small company and local communities are facing impossible financial burdens due to overregulation and demands for unnecessary and redundant testing. Appalachian will be forced to pass these massive financial burdens (by increasing the water rates again which could cost another \$200,000 or more in associated fees for another PAPUC rate case) onto relatively low income communities that simply cannot afford to comply with these unreasonable government demands. Again, the SRBC does not care about any of these facts.

Maintaining a public water system properly is very expensive with seemingly constant emergencies and unpredictable repairs therefore demanding a significant amount of available financial support. Maintaining a water system properly is the only way to provide a safe and reliable product to the communities that we serve and Appalachian has done just that over the past 20 years without any of the testing that SRBC currently demands. A PAPUC rate case to raise the water rates just one time can cost a small community over \$200,000 and take one year including countless hours of water company employee record and documentation work. The SRBC is demanding a 72 pump test for each of our three source water wells (with absolutely no proof that this will improve our source wells) so we are currently estimating an average of \$50,000 per well per pump test or a total of \$150,000 for our small community. Our SRBC application fees will be over \$65,000. If common sense prevailed, then these funds would be spent on maintaining the water system for the customers NOT squandered on reoccurring and unnecessary regulatory demands. The SRBC is going to force our water company to take out loans (go into debt) to comply with their totally unnecessary government demands created by people that know nothing about how difficult it is to properly operate a small community water company. In my opinion, loans should NEVER be considered for reoccurring regulatory demands and should be reserved for large capital improvement projects that make permanent improvements to the community water system.

I attended an SRBC “workshop” on September 20, 2017, it was advertised to be “helpful” to small water systems. I can tell you for a fact that more consultants and government employees (people that make money on the backs of unsuspecting rate payers) were in attendance than representatives from communities that needed help navigating the complex web of expensive SRBC demands. I have the attendance list, contact me and I’ll send it to you so you can see for yourself what these “workshops” are all about. Do not be fooled by misleading SRBC advertisements and claims. These “workshops” are nothing more than a marketing gimmick to further promote the unnecessary work this commission demands communities spend money on.

Appalachian has been operating since 1996 with zero contact from the SRBC until the fall of 2016. A short summary of the history between Appalachian and the SRBC follows, **Attachment 2** includes all recent correspondence from October 24, 2017 to May 15, 2018.

December 23, 2016 the SRBC made it clear that they were not satisfied at the speed Appalachian was attempting to understand their unreasonable demands (please consider that it took SRBC 20 years to do their jobs and communicate with a known PADEP and PAPUC approved public water utility) so they issued our small public water utility a Notice of Violation with the threat of a fine that could exceed **\$1,819,000 and growing at \$1,000 per day per violation.**

October 24, 2017 the SRBC letter was “seeking resolution” of Appalachians unintentional noncompliance with SRBC regulations that Appalachian did not know existed. The SRBC offered a settlement of \$1,000 in lieu of civil penalties and also offer to lower our operating capacity (of the three PADEP permitted wells) by roughly 50% using no science or reasoning of any kind. What this means, for example, is that our #4 Well is currently permitted by the PADEP to pump 105 gallons per minute (gpm) or 151,200 gallons per day (gpd), by following the demands of the SRBC we cannot exceed 100,000 gpd or we will be fined by them. In well #5 we can currently pump 300 gpm or 432,000 gpd, under the rules set by the SRBC we will only be permitted to pump 200,000 gpd. In well #6 we can currently pump 400 gpm or 576,000 gpd, under the rules set by the SRBC we will only be permitted to pump 200,000 gpd. Please keep in mind the SRBC has not conducted any tests at all, but they are lowering our PADEP approved operating capacity for no apparent reason whatsoever. If we have a main break on a Saturday night in Woolrich, we will need to pump over 100,000 gpd over the next 24 hours to replenish our one million gallon water storage reservoir and the SRBC put themselves into a position where they can fine us for that. The SRBC can fine us for properly maintaining the community water supply and repairing an unpredictable failure in a water main line in a timely manner?

November 29, 2018 I responded with more facts and questions about this process that do not make sense, I received no answers to these questions. I also made a counter offer that Appalachian could try to pay the application fees if we receive a 90% discount on the application fees (you will see why I made this offer later in this testimony). I also requested a letter authored by the Pennsylvania Commissioner of the SRBC to explain why the Public Water Supply Permit PADEP issued (**Attachment 1**) is no longer valid and that additional testing/permitting is now required by the SRBC under his direction. I received nothing in response, no letter, no correspondence, absolutely nothing in response. I also explained that no fines or civil penalties of any kind are appropriate in this case because this problem was created by the SRBC and they failed to contact Appalachian for 20 years. In this letter you will find the very clear contradictory statements made by the SRBC when they were claiming to “seek resolution”, one minute they claim all of our wells must be permitted and in the next paragraph they exempt #4 from the process entirely. This letter also fully confirms that the SRBC completed ZERO review (but still collected the money) for the bulk water permit they issued our customer because they do not know how our water system functions. To this day SRBC has not visited our water system to learn anything about it, but they continue to demand \$65,000 in application fees.

April 20, 2018: The SRBC letter informs Appalachian that the Commissioners rejected our counter offer and that negotiations are closed and the Executive Director will be issuing an Order in coming weeks to establish a deadline for Appalachian to submit completed applications for three groundwater wells. **To summarize the underlying message in this letter from the SRBC, Pennsylvania water rate payers, Pennsylvania tax payers, and Pennsylvania business owners’ questions and concerns will not be answered and/or addressed by these government employees. The SRBC is a nontransparent commission and they will do as they please and do not need to explain their actions, decisions, or policies to anyone.**

May 1, 2018: Appalachian responded to request that the application process start in the beginning of 2019 to allow the water company to complete several projects that we have been working on. Please keep in mind, the same time this out of control commission demands this work be done, we also have been informed that the PAPUC is demanding we reduce our rates due to the 2017 Tax Cuts and Jobs Act.

May 15, 2018: The SRBC letter informs Appalachian that “the Commission” is agreeable to the timeline and that they will begin to draft a Consent Order and Agreement. As of the date of this testimony, Appalachian has not received the draft Consent Order and Agreement from the SRBC and is once again expecting retaliation from the SRBC for providing this testimony to enlighten people of their highly erratic behavior, forceful and threatening application of the SRBC water tax being applied by totally unelected government officials.

Attachment 3 is a chart of municipal fees paid to the SRBC 2012-2017. My first testimony in June of 2017 I claim that SRBC attacks different authorities or companies when they want and charge them what they want. This attached chart was acquired from someone at the SRBC and it clearly shows the totally erratic assessment of fees, waivers, and/or refunds. For example, the Borough of Akron paid \$19,000, no refund or credit, conversely the Bloomfield Borough Water Authority received a 100% refund for their application fees. The Muncy Borough Authority paid \$30,552 with no refund or credit for them, at the same time the Elizabethtown Area Water

Authority receives a 90% refund for their application fees. Our SRBC “project manager” Mike Appleby issued the Beech Creek Borough a 100% refund to cover all of their application fees, at the very same time he is demanding Appalachian pay \$65,000 for application fees with no offer for any refund or credit or assistance of any kind. Anyone can plainly see the signal that I should “grease someone’s palm” in this government office in order to be treated better and to save our community some money? Is that the professional atmosphere this regulatory commission desires to establish? Or is this just adding to the well documented prejudice against ALL private business because I don’t see one private business that is receiving a refund or a credit? Evidently all the “free money” being given away by the SRBC is going to an authority, a town, or a borough that are providing the exact same service to their respective community that a private water company does.

Attachment 4 is the SRBC Regulatory Program Fee Schedule. My testimony in June 2017 explained how the SRBC is openly prejudice against all private business. To this day I have received absolutely no reason why this commission has developed a fee schedule to single out and take more money from a private business for the exact same review process.

With respect to the Groundwater Withdrawal Fees on page 5 and according to conversations with SRBC staff the “technical review” for each line item within a category is the same however this commission charges \$8,225 to review a groundwater source that needs to pump 99,999 gallons per day (gpd) and charges \$24,775 to review a groundwater source that needs to pump 999,999 gpd. A more disturbing detail in the fee schedule is that a privately owned company requesting a permit for 100,000 gpd will be charged \$12,375 however a municipal entity would be charged \$6,953 for the very same source.

Appalachians appointed SRBC project manager (Mike Appleby) attempted to persuade Appalachian to file for an Aquifer Testing Plan Waiver for each well at a cost of \$5,125 per well or a total cost of \$15,375. What the SRBC staff failed to mention is that if the waiver is denied by the SRBC for any reason the money is forfeited and is not applied towards other SRBC fees that are required during their permitting process. From a business and common sense standpoint this “Waiver Application” is nothing more than a scam, for any reason the SRBC can deny the waiver and collect the entire \$5,125 or \$15,375 in our case. They could literally do 5 minutes’ worth of “review work” and collect \$15,375. Is this a manipulative money making scam or fair regulatory practice, you decide? If it were a fair regulatory practice then a rejected waiver would be returned and the remaining funds would be applied towards the application fees for the well. In reality the waiver application process is an initial review of the overall application process.

Attachment 5 is the SRBC response to my June 2017 testimony. The second sentence in document states, “SRBC is providing responses so that Mr. Gallagher and committee members have all the information they seek.” That is an untrue statement because the SRBC did NOT mail or email a copy of this response/reply to me which demonstrates the unprofessional behavior that is common with this nontransparent government entity. I just happened to run across this SRBC response document while communicating with individuals about this problem. The SRBC response has a number of inaccurate replies and misleading information provided by someone at SRBC, unfortunately (or fortunately for them) the author did not provide his or her name on this document. I would be happy to schedule a meeting in your office to go over the misleading answers provided by the SRBC in this response document.

Just one example of the misleading replies from the SRBC is with respect to my question regarding agricultural water use from the basin, “Why does the SRBC not regulate surface water withdrawal that is for agricultural use?” Those withdrawals inevitably occur during times of low flow when the Susquehanna River and its tributaries are in their most vulnerable condition.

It appears in the SRBC’s answer that they allow the agricultural water users to “self-report” their daily water withdrawal (which is not metered) and if and when they exceed the threshold for a surface water intake. Does anyone think that self-reporting is an effective regulatory path with Pennsylvania farmers? I have personally spoken to a number of farmers and they all told me the same story which is, “the SRBC fell off the face of the earth a few years ago and that they are not regulated anymore”. If anyone wants to see the proof that agriculture is not regulated by the SRBC with respect to irrigation just contact me for more details and I’ll gladly show you this summer.

I would be happy to schedule a meeting in your office to go over the misleading answers provided by the SRBC in their response to my testimony.

In closing, please consider the following questions that the SRBC refuse to answer:

- How does the SRBC determine who the water users are they claim to be protecting in any given aquifer? Pennsylvania has not and does not require the registration of private groundwater wells or the construction of them or the use of them? This claim of protecting the water users is a totally bogus claim by the SRBC. It is impossible for ANY geologist to predict, with 100% certainty, the future performance of ANY groundwater well. It is also impossible for anyone to find ALL local private wells and “water users”, the PAGWIS system is a joke, I have personally used it on many occasions and I can demonstrate that it is nothing more than an incomplete registry of wells.

- Why do SRBC permits expire in 15 years? The only Professional Geologist that will agree with this is one whose employment/income depend on these regulations. The sole reason is to elevate the “artificial importance of the SRBC” and elevate the cost of these unnecessary permits that NEVER guarantee water in any well in the future nor do they offer any financial assistance should any water well they permit fail. The SRBC recently reduced this permit expiration time for no apparent reason and I am certain they will do it again in the future for the sole purpose of increasing their own annual revenue stream and justifying their own positions. PADEP permits which are the same have no expiration date (see **Attachment 1**).
- Why is a public water supply being punished for working hard to keep water loss down (leaks)? It is common for the SRBC to use historic records to reduce pumping rates for groundwater wells and reduce operating capacity for water wells for no apparent reason. I have proof that this happened at a small water authority in central PA, contact me for details.
- How is Appalachian expected to improve and maintain a public water system when the company is forced to spend \$270,000 on a PAPUC rate case and another \$200-300,000 on SRBC regulations in a few short years? Appalachian cannot afford to repair/replace a main line that we need to replace today because we are over regulated.
- Why does the SRBC demand private business pay nearly double the fee vs. a municipal entity for the exact same “review”? Is it ok for a federal compact to be prejudice to attempt to remove private business from the industry?
- Why is a public water utility being forced to acquire another (second) permit to use 3 groundwater wells when a PADEP permit has been obtained? This commission is NOT to be creating duplicative permitting yet they continue to demand that we do just that.
- What is the SRBC doing with the massive amount of money they have collected from unsuspecting rate payers and businesses across the Susquehanna River Basin? Sustaining the commission is an unacceptable answer when they have \$70,000,000 available in reserve.
- In 2011 alone the SRBC reported a total revenue for the year of \$16,455,610? Is this a government entity or a private business masquerading as a regulatory commission?

- If a water company has a totally unpredictable water main break and the next day the water well exceeds “the unnecessary limit” established by the SRBC, why would the SRBC fine a company for this? Where does the leaked water go? The obvious answer is that the water goes back into the Susquehanna River Basin? Since the water is going back into the Susquehanna River Basin then what exactly is the talking point about? How or why exactly would the SRBC be concerned about this? If we take a step back, on a more broad view, why is the SRBC regulating any public water supply whereby through customer consumption and/or use the water is returned to the basin in one way or another?
- Why is the SRBC putting a fake limit on Well #4 with no science to dictate how much water can be drawn from the well? If a residential housing development is constructed in the future then Appalachian must (according to PAPUC regulations) serve them water if requested. Therefore, the water company will be forced to drill another well. What happens here is that SRBC puts on a fake limit backed by no science on Well #4, then the water company is forced to drill a new well (AND PAY the SRBC application FEES on that new well) to supply the new development into the very same river basin the SRBC claims to be protecting. This does not make any sense to a person with common sense. The SRBC claims to be protecting “water users”, problem for them is that no water users (no water wells) are located inside the cone of influence or radius of influence of any of the source wells owned by Appalachian.
- The SRBC is forcing the water company to substantially raise the water rates due to unnecessary testing, fees, expensive pump tests, etc. which could result in customers canceling their water service and drilling their own private wells. What will the SRBC do when the water company fails (due to losing too many customers because the rates are too high) and roughly 1,400 private wells are drilled into the aquifers they claim to be protecting? In Pennsylvania, private wells are not regulated by anyone. Anyone can drill a private water well on their property. In this case, the PADEP, PAPUC, and SRBC will receive no water quality data or water quantity data from these private citizens and the community water system will no longer be sustainable and will be closed.
- Take one step back from this entire process that the SRBC demands we do, ask yourself if the expensive and unnecessary testing adds value to the water system and creates a better community water supply or not? I think you will agree that in reality we are paying to have the available capacity of PADEP approved (time tested over 20 years) source wells lowered. We are actually paying the government to make a time proven public water supply less effective.
- Who owns the water in Pennsylvania? Why is the SRBC allowed to sell Pennsylvania water to the water company when no current water conflicts have been identified or reported?
- Why is the SRBC (unelected government officials) allowed to levy a water tax on the rate payers in the Susquehanna River Basin, a tax that excludes private water well owners in the basin?

Thank you for your time and for your consideration of my testimony, keep in mind this a small snap shot of our limited experience since last fall, imagine what you will uncover if you contact Professional Geologists (that work for the water company/authority, NOT geologists that make a fortune on unnecessary SRBC science experiments), small local water authority/companies, industry consultants, businesses and manufacturing facilities that need to use or work with water. Contact me anytime to discuss these points and much more in greater detail, I would be happy to schedule a meeting at your office to discuss this problem in more detail and in person.

Please consider that the SRBC is trying to regulate the flow of water in the Susquehanna River by reducing the capacity of Appalachian wells. In reality, during times of low flow Appalachian is extracting ground water from deep confined aquifers, delivering it to the consumers, and eventually adding it to the Susquehanna River therefore contributing to increased flow.

Sincerely thank you for your time,

Kyle M. Gallagher
PADEP Water Operator



Appalachian Utilities, Inc.
1674 Park Avenue
Lock Haven, Pennsylvania 17745
Office 570-769-7647
Email kyleg@pihwtr.com

Attachment:

- 1- 1997 PADEP Operating Permits for Wells 4, 5, and 6.**
- 2- SRBC Letters and AUI Letters (October 24, 2017 to May 15, 2018)**
- 3- Municipal Fees Paid to SRBC 2012-2017**
- 4- SRBC Regulatory Program Fee Schedule**
- 5- SRBC Response to Appalachian 2017 Testimony**



Attachment 1

(4 page)



Pennsylvania Department of Environmental Protection

208 West Third Street, Suite 101
Williamsport, PA 17701-6448

June 10, 1997

Northcentral Regional Office

CERTIFIED MAIL NO.:P 261 748 547

Mr. Frank R. Sargent, Jr., President
Appalachian Utilities, Inc.
2265 Bear Pen Hollow Road
Lock Haven, PA 17745

RE: Public Water Supply
Permit No. 1895503-Operation
Permit No. 1895502-T1 - Operation
Pine Creek Township, Clinton County

Dear Mr. Sargent:

Enclosed you will find two public water supply permits for operation. Permit No. 1895503 authorizes the use of Well Nos. 4, 5 and 6, transmission lines, disinfection and sequestration facilities and related appurtenances. Please comply with the Special Conditions accompanying this permit. Permit No. 1895502-T1 authorizes operation of the two inground finished water reservoirs.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa. C.S., Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This



Appalachian Utilities, Inc.

-2-

June 10, 1997

paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If the Department can be of any further assistance, please feel free to contact this office at 717-327-0540.

Sincerely,



Larry T. Welfer
Environmental Program Manager
Water Supply Management

cc: William Kosmer
B. Jack McKernan
Harrisburg
Microfiche
File

LTW/AB/f

COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF ENVIRONMENTAL RESOURCES
 BUREAU OF COMMUNITY ENVIRONMENTAL CONTROL

PUBLIC WATER SUPPLY PERMIT

NO. 1895503

<p>A. PERMITTEE: (Name and Address)</p> <p>Appalachian Utilities, Inc. 2265 Bear Pen Hollow Road Lock Haven, PA 17745</p>	<p>B. PROJECT LOCATION</p> <p>Municipality <u>Pine Creek Township</u> County <u>Clinton</u></p>		
<p>C. THIS PERMIT APPROVES FOR: 1. <input checked="" type="checkbox"/> Use as Source of Supply 2. <input type="checkbox"/> Construction 3. <input checked="" type="checkbox"/> Operation</p> <p>AS INDICATED BELOW:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> <p>4. Source</p> <p><input checked="" type="checkbox"/> Well(s) <input type="checkbox"/> Spring(s) <input type="checkbox"/> Stream <input type="checkbox"/> Lake</p> </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> <p>5. Facilities</p> <p><input type="checkbox"/> Impoundment <input type="checkbox"/> Settling <input type="checkbox"/> Filtration <input checked="" type="checkbox"/> Iron and Manganese Treatment <input type="checkbox"/> Softening (Sequestration) <input type="checkbox"/> Fluoridation <input checked="" type="checkbox"/> Other <u>Corrosion Control</u></p> </td> </tr> </table>		<p>4. Source</p> <p><input checked="" type="checkbox"/> Well(s) <input type="checkbox"/> Spring(s) <input type="checkbox"/> Stream <input type="checkbox"/> Lake</p>	<p>5. Facilities</p> <p><input type="checkbox"/> Impoundment <input type="checkbox"/> Settling <input type="checkbox"/> Filtration <input checked="" type="checkbox"/> Iron and Manganese Treatment <input type="checkbox"/> Softening (Sequestration) <input type="checkbox"/> Fluoridation <input checked="" type="checkbox"/> Other <u>Corrosion Control</u></p>
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<p>KNOWN AS <u>Woolrich Well No. 4, Avis Well No. 5, Avis Well No. 6</u></p>			
<p>YOU ARE HEREBY AUTHORIZED TO USE AS SOURCE(S) OF SUPPLY, CONSTRUCT OR OPERATE, AS INDICATED ABOVE, PROVIDED THAT FAILURE TO COMPLY WITH CHAPTER 109, ARTICLE II, OF THE RULES AND REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OR THE TERMS OR CONDITIONS OF THIS PERMIT SHALL VOID THE AUTHORITY GIVEN TO THE PERMITTEE BY THE ISSUANCE OF THE PERMIT.</p> <p>NO DEVIATIONS FROM APPROVED PLANS OR SPECIFICATIONS AFFECTING THE TREATMENT PROCESS OR QUALITY OF WATERS SHALL BE MADE WITHOUT WRITTEN APPROVAL FROM THE DEPARTMENT.</p> <p>THIS PERMIT IS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES UNDER THE AUTHORITY OF THE PENNSYLVANIA SAFE DRINKING WATER ACT, THE ACT OF MAY 1, 1984 (P.L. 206, NO. 43). OPERATION SHALL COMPLY WITH THE PROVISIONS OF CHAPTER 109 ADOPTED UNDER THE AUTHORITY IN SECTIONS 4 AND 6(e) OF THE PENNSYLVANIA SAFE DRINKING WATER ACT.</p> <p>THIS PERMIT IS SUBJECT TO THE ATTACHED SPECIAL CONDITIONS <u>A through D</u></p> <p>THIS PERMIT IS SUBJECT TO THE FOLLOWING STANDARD CONDITIONS RELATING TO EROSION CONTROL <u>None</u></p>			
<p>PERMIT ISSUED</p> <p>Date <u>June 10, 1997</u></p>	<p>DEPARTMENT OF ENVIRONMENTAL RESOURCES</p> <p>By <u><i>W. W. Sker</i></u></p> <p>Title <u>Environmental Program Manager</u></p>		

Public Water Supply
Permit No. 1895503-Operation
Pine Creek Township, Clinton County

SPECIAL CONDITIONS

This permit is subject to the following special conditions:

- A. Based upon the 48 hour pump test, Well No. 4 is restricted to a maximum pumping rate of 105 gpm. Well No. 5 is restricted to a maximum pumping rate of 300 gpm and Well No. 6 is restricted to a maximum pumping rate of 400 gpm.
- B. It is recommended that all residents be notified of the sodium concentration and caution advisories be issued for people with high blood pressure or sodium restricted diets when the sodium level exceeds 20 mg/L at the finished water sampling points.
- C. In addition to the general monitoring requirements listed in Chapter 109, the Rules and Regulations for Safe Drinking Water, the following monitoring shall be performed: daily flow totalizer readings from Well Nos. 4, 5 and 6, daily chlorine residuals, pH and orthophosphate measurements from the system entry points; Well No. 4 raw water shall be tested on a weekly basis for total iron and total manganese; Quarterly sampling for total iron and total manganese of Well No. 4 raw water and finished water at the system entry point. This shall be analyzed by a certified laboratory using Standard Methods. These readings and measurements shall be reported to the Department monthly along with chemical usage and equipment maintenance records.
- D. The hypochlorite and polyphosphate solutions shall be prepared such that the chemical feed pumps operate at no less than 20% of their rated capacities. A spare chemical feed pump shall be available at all times. All chemicals used must conform with NSF/ANSI Standard 60. An appropriate phosphate test kit shall be obtained and measurements shall be secured throughout the distribution system. A record of these measurements and a water quality complaint log shall be maintained and presented to the Department upon request.



Attachment 2

(12 page)



SUSQUEHANNA RIVER
BASIN COMMISSION

1425 N. Front Street | Harrisburg, PA 17110-1788 | 717.238.0423 | srbc.net

NY • PA • MD • USA

October 24, 2017

Mr. Kyle Gallagher, Operator
Appalachian Utilities, Inc.
1674 Park Avenue
Lock Haven, PA 17745

Re: Appalachian Utilities, Inc. – Resolution of Ongoing Violations:
Woolrich and Avis Townships, Clinton County, Pennsylvania

Dear Mr. Gallagher:

I am writing to you to seek resolution of Appalachian Utilities, Inc.'s (Appalachian's) noncompliance with the Susquehanna River Basin Compact (Compact), P.L. 91-575, 84 Stat. 1509 et seq., and the Susquehanna River Basin Commission's (Commission's) regulations at 18 CFR Part 806. On December 23, 2016, the Commission issued a Notice of Violation (NOV) to Appalachian for undertaking a project to withdraw groundwater without prior review and approval by the Commission. The Commission has reviewed the information provided by Appalachian and offers this proposal of terms of settlement to resolve these violations.

Appalachian owns and operates the Woolrich and Avis water supply systems (Project), which include three groundwater wells (Wells #004, #005, and #006). Based on information you provided, Commission staff has determined that each well has operated and/or continues to operate at or above the Commission's regulatory threshold of 100,000 gallons per day (gpd) over a rolling 30-day average. Based on this usage, each well would require submission of an application to the Commission for review and approval.

Commission staff has also heard and considered Appalachian's concerns regarding the costs to submit applications, the uncertainty surrounding the Commission's aquifer test waiver process, and the financial impact of a compliance penalty on your facility. In order to resolve your outstanding violations as outlined in the NOV, the Commission is willing to enter into a Consent Order and Agreement and settle this matter under the following conditions:

Aquifer Testing Plan Waivers and Groundwater Applications

1. The Commission will acknowledge that Appalachian is authorized to operate Well #004 below 100,000 gpd on a rolling 30-day average. Provided Appalachian stays below that threshold on Well #004, it will not be required to submit an aquifer testing plan waiver or groundwater withdrawal application for this well.

*A water resource agency serving
the Susquehanna River Watershed*

2. Within ninety (90) days of a signed settlement, Appalachian will submit online aquifer testing plan waiver requests to the Commission for Wells #005 and #006.
3. Staff will conduct expedited, high level review of the waiver requests and provide Appalachian with: (a) confirmation that the data support waivers; or (b) a detailed response about informational shortcomings.
4. Appalachian, in consultation with its consultant and Commission staff, will decide whether to proceed with the waiver request(s) or additional testing, and submit applicable fees. Parties will agree to an appropriate schedule for completing the evaluations.
5. Deadlines for subsequent submittal of groundwater withdrawal applications for Wells #005 and #006, along with applicable fees, will be agreed upon following conclusion of the waiver evaluation(s) and/or testing.

During discussions with Commission staff, Appalachian indicated that it has historic operational testing data and associated evaluations, in addition to daily data showing the quantity taken from each well and corresponding daily groundwater level elevation data. Generally, such information would be sufficient to support a waiver of aquifer testing at the maximum withdrawal rate demonstrated by either the historic test rates or the historic actual use of the wells. Commission staff will endeavor to complete as efficient a review as practicable and, if made possible by complete and comprehensive data submittals, will strive to offer a reduction to fees.

Please note that Appalachian's operational history would typically require submittal of an aquifer testing waiver and groundwater withdrawal application for Well #004. However, based on the rules in place when Well #004 operations began and as a part of this settlement, the Commission is willing to allow Appalachian to operate Well #004 as a part of the Project without the submittal of an aquifer testing waiver and groundwater withdrawal application, provided Well #004 is operated below 100,000 gpd. This provision of the settlement would allow you to avoid the costs of the waiver request and the application process for Well #004 altogether.

Another factor in the Commission's rationale exempting Well #004 from further regulatory requirements is that, based upon our review of the data, the primary reason that Well #004 exceeded the 100,000 gpd threshold was not routine usage, but rather to support the sale of over 77 million gallons of water to the natural gas industry from 2011 to 2015.

Operation of Project during Application Review

1. Appalachian would be authorized to continue, but not increase above current operational levels for Wells #004, #005, and #006, the groundwater withdrawals associated with the Project from the date of execution of the Consent Order and Agreement until such time as the Commission acts on the applications.

2. Appalachian will not be authorized to add any additional sources of water to its Project without prior approval by the Commission.
3. Proposed operational limits would be based on information provided by Appalachian as follows:
 - a. Well #004 – Withdrawal of 0.099 million gallons per day (mgd) (consecutive 30-day average)
 - b. Well #005 – Withdrawal of 0.200 mgd (consecutive 30-day average)
 - c. Well #006 – Withdrawal of 0.200 mgd (consecutive 30-day average)
 - d. Total Project withdrawal limit of 0.275 mgd (consecutive 30-day average)
4. Appalachian would be required on a quarterly basis to report its daily water withdrawal quantity and groundwater elevation data for all three wells; however, these measurements are already taken as indicated during initial discussions with Commission staff.

Settlement In Lieu of Civil Penalties

1. The Commission would agree under the Compact to a settlement of \$1,000 in lieu of civil penalties.

On July 1, 2017, the Commission finalized a rule change regarding civil penalty assessments at 18 CFR § 808.16(a)(7) to allow the Commission to consider the punitive effect of a civil penalty on a project operating in noncompliance. This new criterion allows Commission staff to take into account the effect of a civil penalty on a project based on its relative size, sophistication, and financial resources. The \$1,000 offer in this proposal reflects that concept, and is also based on 18 CFR § 808.16(a)(5), presupposing Appalachian cooperates in good faith to correct the violation.

If you are agreeable to these terms, we will draft a proposed Consent Order and Agreement for your review. If you would like to meet with us to discuss the proposed terms, we would be more than happy to arrange such a meeting. If we do not hear from you before Friday, December 1, 2017, we will assume that you have rejected the offer contained in this letter and the Commission will withdraw it from consideration.

Sincerely,



Andrew J. Gavin
Deputy Executive Director

cc: Eric Mock, Leadership Director for Legislative Affairs, Representative Mike Hanna (via e-mail)
John Busovsky, Legislative Director, Congressman Glenn Thompson (via e-mail)



Appalachian Utilities, Inc.
1674 Park Ave.
Lock Haven, PA 17745

November 29, 2017

Dear Mr. Gavin,

I am writing to you to comply with your request that you receive a response from Appalachian Utilities, Inc. (Appalachian) prior to December 1, 2017. Thank you for your letter dated October 24, 2017 (Attachment 1) that is seeking a resolution to these regulatory issues created by the Susquehanna River Basin Commission (SRBC), however the letter refers to Woolrich and Avis Townships, neither municipality exists in Pennsylvania, please correct this for future correspondence. I would like to politely decline the invitation to have another meeting at your Harrisburg office considering very few questions were answered during our first meeting. Appalachian does not have the available resources to misuse company labor, not to mention the \$1,772 cost the company incurred for a geologist to attend the first meeting because your staff required us to do so. Please consider that Appalachian only has 3 water technicians working in the field, our company cannot afford to send 33% of the available work force to Harrisburg for an unproductive meeting.

I would like to extend an offer for you to visit our office because it will improve your understanding of our community water supply, the service area, and how the distribution system functions. You and your staff are welcome to setup a meeting that will further your understanding of the negative impact your commission will have on our small community and that the unnecessary permitting you demand will misuse funds our community needs to improve aging infrastructure. It is my opinion that the duplicative permitting you demand is only being required to justify the enormous SRBC staff, numerous offices, and maintain a revenue stream that was artificially and temporarily inflated by high natural gas activity that has now subsided.

For Appalachian to move forward with this duplicative permitting that is intended to reduce the available capacity of source groundwater wells serving the community, I am requesting the current Pennsylvania Commissioner of the SRBC to author a letter explaining the purpose of the permit we currently hold (Attachment 2) and the purpose of the permit you demand we apply for under his direction. Please understand that in over 20 years of "real world testing" and remaining in compliance with the PADEP permit, zero problems have occurred with the three wells you demand we permit. No PADEP drought triggers have been reached over the past two decades, no negative issues with our local aquifers have occurred and no impact to other groundwater wells in our area have occurred. If you have any information or evidence to contradict these facts please forward that information to Appalachian as soon as possible.

Appalachian has complied with and completed 2 full facility compliance inspections conducted by the PADEP and 1 full facility compliance inspection conducted by the PAPUC within the past 4 years. All 3 inspections have concluded with extremely favorable comments provided to Appalachian with no demands for changes or suggestions for mandatory improvements. It is important to note that Appalachian is not a consumptive user of water, we do not remove water from the basin.

During Appalachians 2015 PAPUC rate case, the first one Appalachian applied for in 20 years, it was determined by the PAPUC that Appalachian had zero formal complaints on file since 1996 and zero compliance issues, so the first formal complaint filed against Appalachian in 2015 came from a branch of the PAPUC during the rate case for the sole purpose of extending the rate case and driving up the costs. After a thorough financial review during the rate case, the PAPUC failed to report/identify that Appalachian documented zero expense(s) paid to or for SRBC regulations. The reason I mention this is that Appalachian will need to engage in an emergency rate case due 100% to your regulations and fees that were not accounted for during this recent PAPUC rate case. The last PAPUC rate case ended with just over \$270,000 in invoices for Appalachian to battle the tax payer funded PAPUC. The SRBC, as government paid employees of our customers, will be required to attend ALL public meetings in our community, and possibly need to attend hearings as required by the PAPUC to explain exactly what you are demanding we do and why, because I simply cannot explain it.

The second paragraph of page 1 in your October 24, 2017 letter you state, *“Based on information you provided, commission staff has determined that each well has operated and/or continues to operate at or above the commissions’ regulatory threshold of 100,000 gallons per day over a rolling 30-day average. Based on this usage, each well would require submission of an application to the commission for review and approval.”*

On page 2 you provide a directly opposing statement with respect to Well #4, *“Another factor in the commissions rationale exempting Well #004 from further regulatory requirements is that, based upon our review of the data, the primary reason that Well #004 exceeded the 100,000 gallon per day threshold was not routine usage, but rather to support the sale of over 77 million gallons of water to the natural gas industry from 2011 to 2015.”*

Appalachian is completely and thoroughly confused about what direction to proceed due to your contradictory statements in this letter with respect to Well #4. First, you clearly articulate that your staff reviewed the data and all three wells (4, 5, and 6) need to be permitted, then you justify exempting Well #4 entirely from your regulations. This is an excellent example of how the SRBC has created its own terms/definitions and uses them to bend their own rules whenever it is convenient or if they want to give someone a really hard time they distort the definitions the other direction. I request that you provide me a thorough description of this absurd “30 day rolling average” and exactly how you interpret this because I have received several different descriptions from different SRBC employees, your own employees refuse to explain this convoluted daily threshold. The way I understand it, if Appalachian goes over 100,000 gallons per day, just one time, then you have all the data needed to perform another 180 degree turn and demand we permit Well #4, so your suggestion and attempt to exempt Well #4 means very little towards the resolution you claim to seek in your letter. As demonstrated by the regulatory history of Appalachian over the past two decades, we desire to comply with reasonable and necessary regulations, we do not wish to “bend the rules”, which is exactly what you are insinuating we do to move forward.

I need to correct your false and misleading comment found in the above-mentioned paragraph of your letter and as I clarified during our first meeting in your office, ZERO gallons of water from Well #4 was sold to the natural gas industry. All bulk water sold to the natural gas industry was from Appalachians Wells #5 and #6 that was "approved" by the SRBC. If your staff would have conducted a review of the water supply in 2010, as they claim they did, you would have the documentation and description of why ZERO gallons of water from Well #4 was sold to the natural gas industry. This misleading information in your letter is further evidence to confirm my theory that SRBC issued a bogus permit because zero "review work" was completed prior to your staff issuing the withdrawal permit to our bulk water customer. I do not believe that SRBC contacted Appalachian in 2010 and evidently your staff had zero information about our wells to do any "review". You should consider that if your staff did their jobs in 2010 your commission would have demanded we permit our wells then, correct? Or is it standard practice to wait 6 years to contact an entity that your staff identifies to be out of compliance to create a more powerful Notice of Violation or to elevate the fines? Appalachian was and has been under the assumption that SRBC staff conducted a proper review of these wells in the past and that our company was in compliance of your regulations. It is no fault of Appalachian that PADEP did not explain your regulations in 1996, IF they existed and IF they were being enforced, which I do not believe they were. It is no fault of Appalachian that your staff failed to complete any review of our wells over the past two decades or around the time your staff issued a bogus permit worth nothing more than the paper it was printed on. In consideration of these facts, Appalachian cannot agree to any "fine" when all parties involved, including your staff, were not able to recognize this problem. Compliance violations and subsequent monetary settlements or fines should ONLY be used by you when a person or a company/authority knowingly violates your regulations or demonstrates deliberate and/or intentional noncompliance. In this instance, as demonstrated by Appalachians well documented regulatory compliance history, the PADEP involvement installing these three wells and your staffs' failure to evaluate our compliance over the past twenty years. It is clear that no intentional misconduct or willful disregard for your regulations has occurred and it still boggles my mind how your staff made no attempt to contact this public water supply in over 20 years.

I have completed additional research with respect to the extremely expensive application fees you demand water companies, businesses, and small communities pay, which are clearly and openly prejudice against all private business. I have received no explanation of your outright prejudice against private businesses and the extra charges you demand all private businesses pay for no apparent reason. I did ask for this explanation during our first meeting but no information has been provided to justify your fee schedule. Our SRBC project manager Mike Appleby (Supervisor, Groundwater Project Review), provided Beech Creek Borough a 100% refund for their SRBC application fees in January 2017 and the Borough ended up paying absolutely nothing to comply with the SRBC fee schedule. Inside the past 5 years, SRBC provided the Elizabethtown Area Water Authority an 80% refund for their application fees. Please see Attachment 3 to review other entities that you deem worthy of substantial refunds or discounts. The SRBC is demanding that Appalachian pay 100% of the private application fees with no offer of a reduction or financial assistance of any kind? Please explain why you initially demanded \$65,000 in application fees, not to mention the expensive 72 hour pump test initially required for each well, to be paid by our ratepayers when you and your commission are sitting on nearly \$70,000,000 in reserves? Please explain exactly what this reserve money is being collected for, in fact, as a government employee you work for our community so we demand to know what your commission is planning to do with this enormous amount of money that you have collected?

Andrew Dehoff claims your commission is like an insurance policy for communities to have water. He insinuates that after SRBC review our wells are guaranteed not to go dry. I would like to see this in writing because, in my opinion, it is impossible for a geologist to predict with 100% accuracy, the future performance of a groundwater well. Let us assume you complete your expensive review of our wells and our wells do go dry. Please explain exactly how your commission will put water back in these source wells that Andrew Dehoff stated the SRBC will be insuring? I find it highly unlikely that the SRBC would pay for the land, pre drill survey, PADEP testing requirements, piping/appurtenances, drilling/construction of the new well, building a new treatment building, etc. and waive your own costs for the application and testing you typically demand in order to keep our community in water.

In light of these facts presented to you and the well documented and highly inconsistent refunds/discounts issued by SRBC to cover the water tax you levy on Pennsylvania water ratepayers; Appalachian would like to move forward with an offer to pay the application fees if the following conditions are met:

1. Appalachian Utilities, Inc. will receive a 90% discount applied to any and all SRBC fees for the entire duration of time Appalachian operates these three groundwater wells.
2. Appalachian receives a letter authored by the Pennsylvania Commissioner of the SRBC explaining why the Public Water Supply Permit PADEP issued (Attachment 2) is no longer valid and that additional testing/permitting is now required by the SRBC under his direction.
3. Any application fees owed by Appalachian to the SRBC, after the 90% discount is applied, will be placed onto an evenly distributed quarterly payment schedule, with zero interest, to be paid over a period of 10 years not beginning until September of 2018. This condition is in place to provide time for the water company to complete a main line replacement in the spring of 2018.
4. No fine, settlement monies or civil penalties of any kind will be paid by Appalachian to SRBC. Appalachian demonstrates well established regulatory compliance with the PADEP and the PAPUC and has totally unintentional noncompliance of your regulations. In addition, Appalachian has observed and documented repeated misconduct of the SRBC staff and failure of SRBC staff to perform their duties in a professional and timely manner.
5. Appalachian will be issued an alternate SRBC project manager because we cannot trust what ours is telling us and we do not appreciate his unprofessional and disrespectful attitude.

As the Water Operator that is licensed by the PADEP to be responsible for this water system, which none of your staff is to the best of my knowledge, I cannot agree to any reduction in our available water capacity or flow rate from our wells, unless you agree to install another groundwater well to make up the difference you are forcing us to lose without any scientific data or justification to make that decision. Your staff is obviously not familiar with the day to day operation of a public water distribution system if they do not understand that a water company must have available capacity (which is evident in our permit issued by the PADEP) for the case of an emergency or a main line break or to properly maintain a distribution system with an annual flushing program.

Lastly, Appalachian must consider how the SRBC regulations will impact the sustainability of this public water supply that has been developed over the past 200 years. Appalachian may be forced to close the public water supply due to unnecessary financial burdens placed upon our customers by SRBC regulations. The customers may choose to drill private groundwater wells as they simply will not be able to afford their water bills, therefore reducing the cash flow necessary to operate a water company that consists of over 30 miles of distribution mains, 3 wells, 2 one million gallon tanks and all of the equipment necessary to operate and maintain the company. In the case where the water company is unsustainable, customers will be forced to install roughly 1,400 private and completely unregulated groundwater wells into the local aquifers you claim to be protecting. I think we would agree that this direction would be a major setback with respect to the protection of human health and the environment. The SRBC and the PADEP will have zero control of these private groundwater wells and both regulatory agencies will receive zero information about the water quality or the volume of water that is removed from the basin you claim to be protecting.

Appalachian has customers to serve and a business to run, more importantly than that we look out for the communities we serve because our customers may have trouble understanding the overwhelming bureaucracy our small company is forced to navigate just to keep water in their homes. We are forced to consider the end result of your demands from a realistic standpoint and how the communities we serve will be negatively impacted by the financial burdens you are forcing. Your commission, that most Pennsylvania residents do not need or agree with, does not take a common sense approach to the regulations your director has promulgated without the consent of the people you claim to be protecting.

Thank you for your time with this matter and I look forward to completely resolving the issues your commission has created for our small community water supply,

Kyle M. Gallagher
PADEP Water Operator



Appalachian Utilities, Inc.
1674 Park Avenue
Lock Haven, Pennsylvania 17745
570-769-7647

Attachments:

- 1- A. Gavin October 24, 2017 Letter (3 pages)
- 2- PADEP Public Water Supply Permit (4 pages)
- 3- SRBC Municipal Fees Collected Spreadsheet (1 page)

CC: Mr. Eric Mock, Leadership Director of Legislative Affairs, Representative Mike Hanna
Mr. John Busovsky, Legislative Director, Congressman Glenn Thompson
Representative Dan Moul
Representative Daryl Metcalfe
Representative Will Tallman
Representative Jeff Wheeland
Representative Tom Marino
Representative Pat Toomey
Representative Jonathan Fritz



SUSQUEHANNA RIVER
BASIN COMMISSION

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April 20, 2018

Mr. Kyle Gallagher, Operator
Appalachian Utilities, Inc.
1674 Park Avenue
Lock Haven, PA 17745

Re: Appalachian Utilities, Inc. – Resolution of Ongoing Violations:
Clinton County, Pennsylvania

Dear Mr. Gallagher:

I am writing to acknowledge Appalachian Utilities, Inc.'s (AUI's) rejection of the Susquehanna River Basin Commission's (Commission's) October 24, 2017, proposal of terms of settlement. The Commission's offer was presented to resolve AUI's noncompliance with the Susquehanna River Basin Compact, P.L. 91-575, 84 Stat. 1509 et seq., and the Commission regulations at 18 CFR Part 806. On December 1, 2017, we received your counterproposal outlining conditions that the Commission must meet before AUI will proceed with submitting applications for its unapproved groundwater wells. Staff reviewed your counterproposal with our commissioners when they convened in State College, Pa., for the regularly scheduled quarterly Commission meeting on March 8, 2018. I regret to inform you that the Commission cannot accept your counterproposal.

Our offer was grounded in our understanding of your system's operations and based on the limited information and data you have provided to staff thus far. It appears from your response that we misunderstood some aspects of your operations, and for that I apologize. The Commission's proposal was meant to demonstrate that it places compliance above punitive actions, understands the potential burden to AUI of coming into compliance with Commission regulations, and that staff is able to work cooperatively with AUI to achieve necessary compliance. It is with disappointment that we acknowledge that AUI will not accept the Commission's offer.

Absent an agreement with the Commission, AUI remains in noncompliance with federal law, and this noncompliance must be remedied. Accordingly, our Executive Director will be issuing an Order in the coming weeks to establish a deadline for AUI to submit completed applications for the three groundwater wells (Wells #004, #005, and #006) operating as part of the Woolrich and Avis water supply systems. It is our sincere hope that you will reconsider discussing with us the October 24, 2017 proposal before such Order is issued.

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In response to your offer for Commission staff to tour AUI's water systems, we would welcome the opportunity to visit you, learn more about your operations, and assist you with navigating the review and approval process after the terms of the pending Order are satisfied. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew J. Gavin", with a long horizontal flourish extending to the right.

Andrew J. Gavin
Deputy Executive Director

cc: Eric Mock, Leadership Director for Legislative Affairs, Representative Mike Hanna (via e-mail)
John Busovsky, Legislative Director, Congressman Glenn Thompson (via e-mail)
Frank Sargent, Jr., President, Appalachian Utilities, Inc.



***Appalachian Utilities, Inc.
1674 Park Ave.
Lock Haven, PA 17745***

May 1, 2018

Dear Mr. Gavin,

Appalachian desires to be in compliance with the regulations the Susquehanna River Basin Commission has developed but we are not able to pay the application fees you demand due to insufficient funds. Appalachian would like to initiate the application process in January of 2019.

At this time, Appalachian is committed to two significant improvement projects to the water system that are essential to continue to provide reliable and quality service to our customers and the community. The primary project is replacing 690 feet of water main line for customers that currently experience low flow conditions. The second project is replacing a fire hydrant that was installed in the early 1900's.

Please understand that at the same time the Susquehanna River Basin Commission is demanding compliance with their expensive regulations, the Pennsylvania Public Utility Commission is demanding that we lower our water rates because of the 2017 Tax Cuts and Jobs Act.

Thank you for your time with this matter,

Kyle M. Gallagher
PADEP Water Operator



Appalachian Utilities, Inc.
1674 Park Avenue
Lock Haven, Pennsylvania 17745
570-769-7647

Attachment: A. Gavin October 24, 2017 Letter (3 pages)

CC: Mr. Eric Mock, Leadership Director of Legislative Affairs, Representative Mike Hanna
Mr. John Busovsky, Legislative Director, Congressman Glenn Thompson

Representative Dan Moul
Representative Daryl Metcalfe
Representative Will Tallman
Representative Jeff Wheeland
Representative Tom Marino
Representative Pat Toomey
Representative Jonathan Fritz



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May 15, 2018

Mr. Kyle Gallagher, Operator
Appalachian Utilities, Inc.
1674 Park Avenue
Lock Haven, PA 17745

Re: Appalachian Utilities, Inc. – Resolution of Ongoing Violations:
Clinton County, Pennsylvania

Dear Mr. Gallagher:

I have received your letter dated May 1, 2018. The Susquehanna River Basin Commission (Commission) is agreeable to your proposal to initiate the application process in January 2019. We certainly recognize the challenges small drinking water systems face with respect to allocating resources among competing priorities.

In the interim and in the interest of continued cooperation, Commission staff will draft a Consent Order and Agreement (COA) for your review and consideration. We acknowledge Appalachian Utilities, Inc.'s willingness to submit applications to the Commission for review of its operations; however, formalizing the terms using a COA will forestall any further enforcement action by the Commission. Provided the COA can be executed within a reasonable time frame, the Commission will also withhold issuance of any Order referenced in my previous letter.

Please contact Eric Roof, Manager of Compliance Program, at (570) 731-4839, extension 1501, if you have any questions.

Thank you for your attention.

Sincerely,

Andrew J. Gavin
Deputy Executive Director

cc: Frank Sargent, Jr., President, Appalachian Utilities, Inc.
Eric Mock, Leadership Director for Legislative Affairs, Representative Mike Hanna (via e-mail)
John Busovsky, Legislative Director, Congressman Glenn Thompson (via e-mail)

416408.1

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Attachment 3

(1 page)



Attachment 4

(8 page)



SUSQUEHANNA RIVER BASIN COMMISSION

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REGULATORY PROGRAM FEE SCHEDULE

Effective July 1, 2016

Adopted by Resolution No. 2016-04, June 16, 2016

1. The Susquehanna River Basin Commission (Commission) requires payment of nonrefundable fees for the review of applications (see tables herein). The following categories of projects require approval by the Commission under the Susquehanna River Basin Compact (the "Compact") and Commission regulations found in 18 CFR Parts 801 and 806.
 - a. Consumptive uses, including all related administrative approvals under 18 CFR § 806.22.
 - b. Surface water and groundwater withdrawals, including any related aquifer testing plan evaluations, waiver requests, or aquatic resource surveys.
 - c. Diversions.
 - d. Hydroelectric projects.
 - e. Any other projects requiring the review and approval of the Commission under the Compact that do not involve a request for a quantity of water.
 - f. Other applications required under 18 CFR § 806.5.
 - g. Modifications to approvals under 18 CFR § 806.18.
2. If any project involves more than one of the above categories, a separate fee is required for each category.
3. Fees for Consumptive Use Mitigation and Annual Compliance and Monitoring are also set forth in this schedule.
4. The appropriate fee must be submitted to the Commission with the project application (see Paragraph 13 regarding an installment payment option). Failure to submit payment of the fee or submission of an insufficient fee with the application will result in its return to the project sponsor or, at the discretion of the Commission, an additional billing of the proper fee to the project sponsor. Except as otherwise provided in Paragraph 9, refunds will be

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made for any portion of a fee payment submitted with the application that exceeds the appropriate amount identified on the tables herein. The Commission will not take action on a project application until the appropriate fees are paid.

5. Agencies of the member jurisdictions to the Compact with applicable member jurisdiction-wide authority, subject to the provisions of Paragraph 19, are exempt from project review fees. Political subdivisions of the member jurisdictions, as defined herein, are subject to these fees.
6. Agricultural water use projects, as defined in 18 CFR § 806.3, are exempt from the fees set forth in this schedule.
7. Public water systems owned and operated by a governmental authority, as defined in 18 CFR § 806.3, are eligible to pay the discounted fee amounts identified in the "Municipal Fee" category listed on the tables herein.
8. Groundwater remediation systems approved by an agency of a member jurisdiction shall pay a single withdrawal application fee based on the total requested quantity of withdrawal to create a single, localized depression within the groundwater table, regardless of the number of individual recovery wells being used in the system. Such systems shall also pay a single annual compliance and monitoring fee.
9. Fees paid in accordance with this schedule are nonrefundable, except as allowed for in Paragraph 14. Fees are not reduced nor any amount credited to the project sponsor if the Commission's approval authorizes a rate of withdrawal or quantity of water that is less than that requested by the project sponsor, or if application deficiencies cause Commission staff to terminate review of the application during the review process.
10. If instructed to submit paper application forms, project sponsors must complete and submit the enclosed Project Review Fee Worksheet (page 8) with their application payment.
11. When fees calculated in accordance with this schedule are deemed to be insufficient to cover costs associated with applications or compliance, or where technical assistance is otherwise provided at the request of the project sponsor, the project sponsor shall be responsible for all costs associated with actual hours worked by Commission staff, including an allocation of salary, fringe benefits and overhead costs. Projects which may require additional fees include, but are not limited to: withdrawals for power plants, out-of-basin diversions of water, and withdrawals from waterbodies identified under Commission Policy No. 2012-01 as Exceptional Quality or as Aquatic Resource Class 1 or 2. Efforts will be made to notify the project sponsor in advance if additional fees are anticipated.
12. The Commission may, for good cause shown, waive or partially waive any of the fees set forth herein for situations that include, but are not limited to: (a) an incentive for the use of impaired waters in accordance with Commission Resolution No. 2012-01; (b) applications that have previously undergone substantive analysis through member jurisdiction reviews or other previous and/or concurrent Commission reviews; and (c) certain technical considerations that reduce review requirements, such as multiple

sources that may be evaluated as a single source (e.g., a wellfield). The Executive Director is authorized to grant fee waivers or partial waivers of \$15,000 or less. Any requests for waivers or partial waivers for application fees related to projects proposing to use mine degraded water shall be considered in accordance with Commission Policy No. 2009-01. Applicants subject to financial constraints may consider the installment options set forth in Paragraph 13.

13. If the fees for any single application exceed \$25,000, or if the fees for a set of applications exceed \$50,000, project sponsors have the option of making installment payments. This option provides for the payment of up to three consecutive equal annual installments with interest thereon at a rate of prime¹ plus 2 percent, but not less than 5 percent per annum on the unpaid balance. The project sponsor should indicate that it intends to use this option when making application, and must submit an agreement for terms of payment in a form and manner prescribed by the Commission. Municipal project sponsors (see Paragraph 17) have the option of making installment payments for fees exceeding \$15,000 in total, and may make payments of up to five equal annual installments with interest thereon at a rate of prime¹ plus 2 percent, but not less than 5 percent per annum on the unpaid balance. The first annual installment is due at the time the application is submitted.
14. The Executive Director is authorized to refund up to 50 percent of the application fee, depending upon staff effort expended, if the project sponsor voluntarily withdraws an application prior to the commencement of technical review.
15. All projects approved by the Commission on or after January 1, 2010, including modifications, renewals, transfers and reissuances of approvals, shall also be subject to annual compliance and monitoring fees as set forth herein. Fees are due and payable within 30 days from the date of invoice.
16. The fee which is due is based upon the fee schedule in effect on the date that the application is submitted to the Commission.
17. For purposes of this fee schedule, municipalities are defined as political subdivisions of the member states, which shall include counties, townships, towns, boroughs, villages, cities, authorities, boards or any other organizations or public benefit corporations created by the member jurisdictions and not having jurisdiction-wide authority. When a municipality engages in private enterprise activities unrelated to traditional delivery of potable water to residences and businesses within its prescribed service area, fees associated with such activities will be subject to the standard fees applicable to any private enterprise.
18. Applications which are submitted in error, which contain significant errors requiring Commission staff support to correct, or which are withdrawn prior to the start of administrative review will incur an administrative fee of \$250 per application to cover costs associated with correcting the error(s). This fee will be subtracted from any refund payment that is made to a project sponsor for the associated application when a payment has been made.

¹ Prime refers to the U.S. Prime Rate at the time of the installment payment request.

19. This fee schedule contains fee exemptions and discounts that are supported by member contributions and intended for applications submitted by jurisdictional agencies and municipalities. These exemptions and discounts may be adjusted based on actual member contributions received should they differ significantly from amounts requested.

TABLE 1. PROJECT REVIEW AND MODIFICATION FEES

Project Category	Requested Quantities/Capacities¹	Standard Fee	Municipal Fee
Consumptive Water Use	20,000 gallons per day (gpd) – 99,999 gpd 100,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd 1 million gpd (mgd) – 5 mgd Over 5 mgd	\$ 3,050 6,125 12,150 36,350 60,625	\$ 2,440 4,900 9,720 29,080 48,500
Approval by Rule Consumptive Use; 18 CFR § 806.22(e)	20,000 gpd – 99,999 gpd 100,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd Over 999,999 gpd	\$ 1,550 3,075 8,075 see footnote ²	\$ 1,240 2,460 6,460 see footnote ²
Approval by Rule ³ Consumptive Use; 18 CFR § 806.22(f)	<u>Unconventional Natural Gas or Other Hydrocarbon Development</u> New Application Renewal Application <u>Water Source:</u> Source Registration; Subsection (12) Source Approval; Subsection (13) Hydrocarbon Water Storage Facilities; Subsection (14)	\$ 8,075 2,075 530 1,125 2,575	Not Applicable Not Applicable
Surface Water Withdrawals ^{4,5}	Less than 100,000 gpd 100,000 gpd – 249,999 gpd 250,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd 1 mgd – 5 mgd 5,000,001 gpd – 10 mgd Over 10 mgd	\$ 5,300 7,950 10,600 13,250 15,875 34,500 34,500 + \$5,875 for each additional 1 mgd increment ^{6,7}	\$ 4,240 6,360 8,480 10,600 12,700 27,600 27,600 + \$4,700 for each additional 1 mgd increment ^{6,7}
Groundwater Withdrawals ^{4,5}	Less than 100,000 gpd 100,000 gpd – 199,999 gpd 200,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd 1 mgd – 5 mgd 5,000,001 gpd – 10 mgd Over 10 mgd	\$ 8,225 12,375 16,550 20,675 24,775 53,785 53,785 + \$9,450 for each additional 1 mgd increment ^{6,7}	\$ 4,622 6,953 9,264 11,586 13,886 30,157 30,157 + \$5,296 for each additional 1 mgd increment ^{6,7}
<u>Diversions:</u> Into Basin	All quantities	\$ 10,125	\$ 8,100
Out of Basin	Less than 250,000 gpd 250,000 gpd or greater	10,125 30,350 +	8,100 24,280 +

TABLE 1. PROJECT REVIEW AND MODIFICATION FEES (continued)

Project Category	Requested Quantities/Capacities ¹	Standard Fee	Municipal Fee
		consumptive use fee (unless not applicable)	consumptive use fee (unless not applicable)
Hydroelectric Projects (New or Re-licensing)	Greater than 10 megawatts (anything less subject to "all other projects" category below)	\$236,325 ⁸	Not Applicable
All other projects requiring review and approval and not otherwise specified	All quantities or capacities	\$ 5,050	\$ 4,040
Minor Modifications		\$ 750	\$ 600
Aquatic Resource Survey ^{5,9}		\$ 5,875	\$ 4,700
Pre-Drill Well Site Review ¹⁰		\$ 2,275	\$ 1,820
Aquifer Testing Plan ^{4,11}		\$ 5,125	\$ 3,832
Aquifer Testing Plan Waiver Request Evaluation ^{4,11}		\$ 5,125	\$ 3,832
Emergency Certificate		\$ 5,050	\$ 4,040
Transfer of Approval ¹²		\$ 1,050	\$ 840
Re-issuance of Approval ¹²		\$ 525	\$ 420

¹ Fees for new and renewal applications are based on the maximum withdrawal amount (on a peak day or 30-day average basis, as appropriate) requested in the application. Fees for modifications of approved projects, other than minor modifications as defined in 18 CFR § 806.18, are based on the increase in the requested quantity/capacity. When a modification other than a minor modification is requested that does not include an increase in quantities, the lowest fee for the applicable project category shall apply.

² Projects under 18 CFR § 806.22(e) which will require consumptive use of more than 999,999 gpd should consult with Commission staff prior to submitting an application. Fees for these projects will be subject to Paragraph 11 of this fee schedule, but in no case will pay less than \$8,075 (\$6,460 for municipal projects).

³ Except where the project sponsor has an approved docket, any water source serving an Approval by Rule must be either registered or administratively approved, regardless of quantity.

⁴ A separate fee is required for each withdrawal location, except for groundwater remediation systems that may be eligible for a single fee.

⁵ An aquatic resource survey fee may be required for applications for surface water and groundwater withdrawals, or for modifications or renewals of approved withdrawals (see footnote 9).

⁶ 1 mgd increment includes any amount from 1 gallon to the next mgd.

⁷ The maximum calculation of a project fee for this category will be \$282,675.

⁸ Fees for these projects will be subject to Paragraph 11 of this fee schedule. Additional fees will be assessed when actual costs exceed the fee. A refund will be issued when actual costs are less than the fee.

⁹ Aquatic resource surveys will be conducted on streams when recent relevant data are not available to evaluate the potential impacts of a withdrawal. Commission staff will make that determination during the review of an application and will invoice this fee separately.

¹⁰ Project sponsors may request a pre-drilling evaluation for proposed groundwater withdrawals. Fifty percent (50%) of the fee paid for a pre-drilling evaluation will be applied towards the aquifer testing plan fee for a well that was completed at the same borehole location identified in and evaluated with the pre-drilling well site review.

¹¹ If a waiver for an aquifer testing plan is requested and denied, the project sponsor will be required to develop an aquifer testing plan and pay an additional fee.

¹² The fee for transfers or re-issuances as defined under Commission regulation found in 18 CFR § 806.6 which occur simultaneously as part of a single transaction will be reduced by fifty percent (50%) when the number of transfers or re-issuances in the transaction equals 25 or more.

TABLE 2. ANNUAL COMPLIANCE AND MONITORING FEE^{1,2}

Facility Category	Standard Fee	Municipal Fee
Hydroelectric	\$10,325	\$8,260
Withdrawal, Consumptive Use, Diversion	\$ 1,050	\$ 840
Approval by Rule / General Permit Notice of Intent	\$ 1,050	\$ 840

¹ Annual compliance and monitoring fees apply to each facility approved by the Commission on or after January 1, 2010, including modifications, renewals, transfers and reissuances of approvals that require Commission or Executive Director action on or after that date. Commission orders, including consent order and agreements, may include the annual compliance and monitoring fee where the order requires ongoing metering and reporting to the Commission or requires applications to be made to the Commission.

² All fees on this table will be invoiced by the Commission on or after July 1 of each year. During the first year, fees will be prorated by quarter on the basis of a fiscal year commencing July 1. Fees are due and payable within 30 days from the date of invoice. Facilities which submit rescission requests on or after July 1 of each year will owe the entire annual fee.

TABLE 3. CONSUMPTIVE USE MITIGATION FEE

Project Category	Standard Fee
Consumptive Use Mitigation Fee ¹	\$0.33 per 1,000 gallons consumed

¹ Consumptive use mitigation fees are paid by project sponsors electing to use such payments as their method of compliance with 18 CFR § 806.22(b). Such fees are deposited in the Commission's Water Management Fund and shall be used for planning, engineering, design, and construction phases of new projects, or the reformulation of existing reservoirs, or any other project or study initiated by the Commission to address the cumulative impact of consumptive water use or otherwise to support low flow management in the Susquehanna River Basin, as provided for in the Commission's Water Management Fund Policy, originally adopted as Policy No. 95-02, June 8, 2005, and amended by Resolution No. 2008-05, September 11, 2008.

PROJECT REVIEW FEE WORKSHEET

Project Sponsor:

Facility:

Municipality:

County:

State:

	Project Category ¹	Source Location ²	Requested Quantity (gpd) ³	Municipal Fee (Yes/No)	Fee from Table
¹ Consumptive Water Use, Approval by Rule, Withdrawal, Diversion, etc. ² Name of withdrawal point (not applicable for Consumptive Water Use); e.g., Well 2A, Trout Creek, etc. ³ Requested amount of water in gallons per day (gpd) based on peak 24-hour period or 30-day average, as appropriate.				Amount Due	
				Amount Paid	
				Check Number	

Kyle Gallagher of Appalachian Utilities submitted the following questions as part of his written testimony to the PA House State Government Committee for the hearing held in Selinsgrove on June 12, 2017. SRBC is providing responses so that Mr. Gallagher and committee members have all the information they seek. Responses follow each question as posed in the written testimony:

Q: Why does the SRBC not regulate surface water withdrawal that is for agricultural use? Those withdrawals inevitably occur during times of low flow when the Susquehanna River and its tributaries are in their most vulnerable condition. Evidently the SRBC's position is that a crop of beans is more important than the aquatic ecosystem and the fish that live there all year-round.

A: Surface water withdrawals for agricultural use are subject to the exact same regulatory standards as any other surface water withdrawal. If an agricultural water withdrawal poses the threat of significant adverse impact to the aquatic ecosystems during times of low flow, SRBC will impose operating conditions to minimize or avoid those impacts.

Q: How does the SRBC determine who the water users are they claim to be protecting in any given aquifer? Pennsylvania has not and does not require the registration of private groundwater wells or the construction of them or the use of them? This claim of protecting the water users is a totally bogus claim by the SRBC, it is impossible for ANY geologist to predict, with 100% certainty, the future performance in ANY groundwater well.

A: As part of the application materials, the applicant is required to conduct a survey of nearby water users. Although Pennsylvania does not require the registration of private wells, there is a very robust voluntary database, the Pennsylvania Groundwater Information System (PaGWIS), maintained by PA DCNR's Bureau of Topographic and Geologic Survey. PaGWIS is a repository of hundreds of thousands of water well records, mostly submitted to the Bureau by water well drillers starting in the mid-1960s.

Mr. Gallagher is correct that the future performance of a well is impossible to predict. Overcoming that uncertainty is the purpose of the 72-hour test and the ongoing data collection – to gauge and monitor the performance of the well and keep an eye out for deviations from normal.

Q: Why does the SRBC demand a 72 hour pump test? This demand is unnecessary and very expensive according to Professional Geologists outside of SRBC and is not based on a common sense approach or an industry standard.

A: SRBC's strong preference is to use long-term operational monitoring data to evaluate the capabilities of a well. However, in the frequent absence of such data, testing is a common and absolutely necessary tool that Professional Geologists use to characterize a system of aquifers. The test evaluates the ability of the aquifer, the local groundwater basin, and the well to supply the requested quantity of water and the potential impact of the proposed withdrawal on existing water supplies and environmental resources. This is accomplished by pumping the proposed production well at a rate greater than or equal to the desired rate of withdrawal and observing the induced changes in surrounding groundwater levels, surface water bodies, and wetlands. Aquifer test duration may vary depending on site-specific and use-specific parameters, and should be sufficiently long to establish the hydrologic changes and trend characteristics of the proposed production well operation, aquifer, and groundwater basin. The generally recommended length of the aquifer constant-rate test is 72 hours, which is widely recognized as the duration likely needed to achieve equilibrium in water level drawdown in the Susquehanna River Basin, and is a standard that is similar to that required by at least 24 other agencies in twenty other states. A longer or shorter test may be appropriate to evaluate aquifer and well capabilities, as well as potential impacts to existing water supplies and the environment. It is the responsibility of the project hydrogeologist to recommend an adequate pumping test length demonstrating due diligence for site characterization and long-term protection of the resource, and provide a rationale for that recommendation.

Q: Why do SRBC permits expire in 5 years? No Professional Geologist can understand this nor can a person with common sense understand this. The sole reason is to improve the revenue stream of the SRBC. They just reduced this in recent years for no apparent reason.

A: SRBC groundwater permits are issued for a duration of 15 years. The term was reduced from 25 years to 15 years in 2007 because of concern that 25 years was too long a duration to go without reviewing well performance and local conditions to evaluate well sustainability. SRBC's revenue stream is not enhanced by reviewing groundwater withdrawal applications; the fees collected do not fully offset the cost SRBC incurs to review the applications.

Q: Why is a public water supply being so unfairly regulated with massive financial burdens if no water is being removed from the basin? We are not producing widgets for China or selling bulk water to Nestle for direct transport out of the basin. Our water is put into a distribution system and consumed and/or used by human tax paying residents of Pennsylvania and released back into the basin (hydrologic cycle) at the wastewater treatment plant at the other end of town.

A: Public water suppliers, and any groundwater well user, draw water from a shared aquifer that is supplying other wells, local springs, and local streams with water. High quantity (i.e. non-residential) pumps change the natural transmission of groundwater and can interrupt delivery to other wells, springs and creeks. Excessive pumping can also introduce air to groundwater pathways and invite fouling, which can reduce water transmittal capacity and adversely affect water quality, thus rendering the aquifer unusable for all who rely on it. Finally, a very significant purpose of the testing requirement is to demonstrate whether or not the well can provide the desired quantity of water under drought conditions. If it cannot, the water system will be unable to provide water to its residents during droughts, local businesses and industries that rely on the public water will need to shut down or find supplemental water sources likely at great additional cost, and water availability for emergencies such as firefighting can be severely compromised. Public water supplies are certainly given priority

when conflicts arise, but no water user can be given full latitude to do whatever it wants no matter the implications.

Q: Why is a public water supply being punished for working hard to keep water loss down (leaks)? It is common for the SRBC to use historic records to reduce pumping rates for groundwater wells for no apparent reason?

A: Mr. Gallagher appears to be relating regulatory decisions regarding the quantity of water permissible to be pumped from a well with successful identification and elimination of leaks. That is not the case. SRBC occasionally reduces earlier permitted quantities if the applicant cannot provide data showing that the previously approved rate is sustainable or if the applicant cannot demonstrate long-term need for the previously approved quantity. It is not a punishment to correlate permitted water quantities with demonstrated or reasonably forecasted demand. SRBC strongly encourages, and in some cases requires, operators to address leaks and other water losses so that water is not wasted, but no user can or should be permitted to “lock up” a guaranteed quantity of water if they can’t demonstrate past or future need for it, particularly if that allocation prevents another nearby user seeking water from being able to obtain a permit for it.

Q: How is Appalachian expected to improve and maintain a public water system when the company is forced to spend \$270,000 in 2015-2016 on PAPUC rate case and another \$200-300,000 on SRBC regulations the next couple years? Appalachian cannot afford to repair/replace a main line that we need to replace today because we are over regulated, those customers are going to be forced to wait for that improvement because the government is forcing another unnecessary financial burden on the water company.

A: There is no reason the for-profit Appalachian system should not undergo the same review process that hundreds of other public and private systems have concluded, and that Appalachian should have sought twenty years ago. Regardless, the effort to achieve permitting should cost nowhere near \$200-300,000. SRBC does not intend to impose an immediate deadline on the long-overdue permitting, but will coordinate with Appalachian Utilities to devise a reasonable timeline to achieve permitting on a schedule that best fits within Appalachian Utilities’ budget, capital improvement plans, and anticipated profits. That notwithstanding, SRBC staff finds it highly unusual that Appalachian Utilities expects to fund permit applications with the same long-term financial mechanisms (such as loans, bonds and grants) as would be used for a multi-million dollar capital project such as replacing a water main. One should not preclude the other.

Q: Is the SRBC focused on Quality or Quantity of water in the basin? I was told by the former PADEP representative at the SRBC (Kelly Heffner) that the SRBC focus is on water Quantity. If that is true then why does the SRBC spend millions of dollars every year on water Quality projects and their water Quality monitoring network. Does PADEP do water Quality work?

A: SRBC’s regulatory focus is quantity, but the Commission retains a strong interest in water quality as well, in accordance with Article 5 of the Susquehanna River Basin Compact (attached – final page), entitled WATER QUALITY MANAGEMENT AND CONTROL. SRBC assists the states and federal government in answering questions such as where are the basin’s streams

impaired, what are the sources of impairment, and are restoration/protection projects working as planned? SRBC conducts water quality monitoring and restoration because PADEP and US EPA provide funding for the Commission to do so in order to aid those agencies in their water quality protection and enforcement roles. No municipal permit fees are used for any of SRBC's water quality efforts whatsoever.

Q: Why is the SRBC currently trying to raise the fees again? Do they need another office full of custom floor tile or another veranda overlooking a different section of their river?

A: SRBC reviews its fees, the revenue they generate, and costs incurred by the regulatory program on an annual basis to determine if adjustments are warranted. Despite expenditures to review groundwater applications far exceeding revenue generated by application fees, SRBC is not seeking to increase groundwater fees. In fact, at its June 2017 business meeting, SRBC commissioners adopted a fee schedule for the 2018 fiscal year that includes no across-the-board increases and offers certain discounts. Only one fee was increased; the fee for a minor modification was increased from \$750 to \$1,000 because an analysis showed the effort to process such requests costs more than \$750.

Q: Why does the SRBC have a line item in the fee schedule for groundwater withdrawals less than 100,000 gpd? When I ask Kelly Heffner about this she was not familiar that it existed, so it must be fairly new. This is the ground work to attack every single private groundwater well owner in the basin. Can a typical homeowner afford their fines, the \$8,225 SRBC application fee and to hire a Professional Hydrogeologist to handle the mountain of unnecessary paperwork?

A: SRBC has no interest or intent to regulate private residential groundwater wells. In 2007, SRBC adopted two rules that may subject groundwater sources under 100,000 gallons per day to SRBC oversight despite pulling less water than the threshold established in the 1978 groundwater withdrawal regulation. First, groundwater wells that provide the water to a regulated consumptive use are subject to regulation, regardless of withdrawal quantity. Second, groundwater wells under 100,000 gpd that are part of a larger system exceeding 100,000 gpd are subject to regulation. The rationale for such requirements is to ensure proper oversight over numerous small sources located in sensitive settings. No individual, stand-alone municipal or residential well pumping under 100,000 gpd is in any way subject to SRBC regulation.

Q: Why is the SRBC openly demanding private business pay nearly double the fee vs. a municipal entity for the exact same "review"? Again, collecting money using force and no additional "service" in return, in other arenas this is called extortion.

A: Beginning with the 2005 fiscal year, SRBC Commissioners have offered discounted fees to public water supply systems, in recognition of the annual appropriations the states make to the Commission for operating expenses. Conversely, SRBC policy is that private, for-profit water users should pay for the cost staff incurs reviewing their applications, rather than expect taxpayers to subsidize such costs. The service provided is the same in either case, but for municipal entities the cost is subsidized by annual appropriations from our member states.

Q: Why is a public water utility being forced to acquire another (second) permit to use 3 groundwater wells? Do you think you should have 2 Pennsylvania drivers' licenses?

A: SRBC's permit serves a different purpose from PADEP's permit. SRBC certifies the ability of the well(s) to deliver a specific quantity of water during a drought without denying water to neighboring users. DEP's permit certifies that the water produced by the well is clean, or at least treatable, and that the treatment system it goes to is capable of treating it to safe drinking water standards. The situation is not the same as having 2 drivers' licenses. Rather, it is akin to having an insurance card (certifying that resources are available in the event of an unexpected event) and an inspection sticker (certifying that the vehicle is safe to operate on public roadways).

ARTICLE 5
WATER QUALITY MANAGEMENT and CONTROL

Section 5.1—General Powers.

(a) The commission may undertake or contract for investigations, studies, and surveys pertaining to existing water quality, effects of varied actual or projected operations on water quality, new compounds and materials and probable future water quality in the basin. The commission may receive, expend, and administer funds, Federal, state, local or private as may be available to carry out these functions relating to water quality investigations.

(b) The commission may acquire, construct, operate, and maintain projects and facilities for the management and control of water quality in the basin whenever the commission deems necessary to activate or effectuate any of the provisions of this compact.

Section 5.2—Policy and Standards.

(a) In order to conserve, protect, and utilize the water quality of the basin in accordance with the best interests of the people of the basin and the states, it shall be the policy of the commission to encourage and coordinate the efforts of the signatory parties to prevent, reduce, control, and eliminate water pollution and to maintain water quality as required by the comprehensive plan.

(b) The legislative intent in enacting this article is to give specific emphasis to the primary role of the states in water quality management and control.

(c) The commission shall recommend to the signatory parties the establishment, modification, or amendment of standards of quality for any waters of the basin in relation to their reasonable and necessary use as the commission shall deem to be in the public interest.

(d) The commission shall encourage cooperation and uniform enforcement programs and policies by the water quality control agencies of the signatory parties in meeting the water quality standards established in the comprehensive plan.

(e) The commission may assume jurisdiction whenever it determines after investigation and public hearing upon due notice given that the effectuation of the comprehensive plan so requires. After such investigation, notice, and hearing, the commission may adopt such rules, regulations, and water quality standards as may be required to preserve, protect, improve, and develop the quality of the waters of the basin in accordance with the comprehensive plan.

Section 5.3—Cooperative Administration and Enforcement.

(a) Each of the signatory parties agrees to prohibit and control pollution of the waters of the basin according to the requirements of this compact and to cooperate faithfully in the control of future pollution in and abatement of existing pollution from the waters of the basin.

(b) The commission shall have the authority to investigate and determine if the requirements of the compact or the rules, regulations, and water quality standards of the commission are complied with and if satisfactory progress has not been made, may institute an action or actions in its own name in the proper court or courts of competent jurisdiction to compel compliance with any and all of the provisions of this compact or any of the rules, regulations, and water quality standards of the commission adopted pursuant thereto.

Section 5.4—Further Jurisdiction. Nothing in this compact shall be construed to repeal, modify, or qualify the authority of any signatory party to enact any legislation or enforce any additional conditions and restrictions to lessen or prevent the pollution of waters within its jurisdiction.