



Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building

P.O. Box 2063

Harrisburg, PA 17105-2063

December 8, 2009

Office of the Secretary

717-787-7196

Mr. David Naftzger
Executive Director, Great Lakes-St. Lawrence River Basin Water Resources Council
Secretary, Great Lakes-St. Lawrence River Water Resources Regional Body
c/o Council of Great Lakes Governors
35 East Wacker Drive, Suite 1850
Chicago, IL 60601

Subject: Water Management Program Report and Water Conservation and Efficiency Program
Report Submitted on behalf of the Commonwealth of Pennsylvania

Dear Mr. Naftzger:

On behalf of the Commonwealth of Pennsylvania, please find enclosed a Water Management Program Report; and, a Water Conservation and Efficiency Program Report being sent pursuant to and in satisfaction of the obligations included in Section 3.4 of the Great Lakes-St. Lawrence River Basin Water Resources Compact.

If you have any questions, please contact me by e-mail at cathmyers@state.pa.us or by telephone at 717-787-7196.

Sincerely,

Cathleen Curran Myers
Special Assistant for PA Recovery

Alternate of Governor Edward G. Rendell,
Member, Great Lakes-St. Lawrence
River Basin Water Resources
Council

cc: Governor Edward Rendell
Peter Johnson, Program Director, Council of Great Lakes Governors



Pennsylvania Great Lakes Water Management Program Report
December 8, 2009

The following information is included in the report submitted by the Commonwealth of Pennsylvania to the Regional Body and Compact Council pursuant to the requirements in the Agreement Article 300 and the Compact Section 3.4.

1. Lead agency/agencies and contact person(s):

Pennsylvania Department of Environmental Protection: Lori Boughton, Chief, Office of the Great Lakes, (814) 217-9635; John Booser, Associate Director for River Basin Cooperation, Water Planning Office, (717) 772-1101.

2. Citations to State/Provincial Water management program implementing laws, regulations and policies:

The Great Lakes-St. Lawrence River Basin Water Resources Compact, the act of July 4, 2008, (No. 43), 32 P.S. Section 817.21 et seq.

The Water Resources Planning Act, the act of December 16, 2002 (P.L. 1776, No. 220), 27 Pa. C.S. § 3118(b)

The Pennsylvania Safe Drinking Water Act, the act of May 1, 1984 (P.L. 206, No. 43), 35 P.S. §§721.1-721.17

The Water Rights Act, the act of June 24, 1939, P.L. 842, 32 P.S. §§631-641.

The Pennsylvania Clean Streams Law, the act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §§ 691.1 *et seq.*

The Oil and Gas Act, the act of December 19, 1984, P.L. 1140, 58 P.S. §§601.101 et seq.
* Water withdrawal activities related to Marcellus Shale development

The Dam Safety and Encroachment Act, the act of November 26, 1978, P.L. 1375, 32 P.S. §§ 693.1 et seq.

Implementing Regulations: Title 25 Pa. Code Chapters 78, 93, 96, 105, 109, 110:

In the case of Oley Township, *et al.* vs. Commonwealth of Pennsylvania, Department of Environmental Protection and Wissahickon Spring Water, Inc. Permittee (EHB Docket No. 95-101-MG), the Environmental Hearing Board (EHB) found that DEP also has an affirmative obligation to make a determination concerning the effect, if any, on adjacent water resources of projects subject to permitting by the Department.

Chapters 93 and 96, Chapter 93 Water Quality Standards and Chapter 96 Water Quality Standards Implementation specifically direct DEP to prevent degradation of water quality that supports existing and designated uses.

Chapter 105, Dam Safety and Waterway Management.

Chapter 109, Safe Drinking Water.

Chapter 110, establishes the requirements for registration of water users and record keeping and reporting of water withdrawal and use information, as required by the Water Resources Planning Act. The regulation specifies who is required to register, keep records and report information related to withdrawals of water in the Commonwealth and details the information that is to be recorded and reported to the Department.

Policies: Susquehanna River Basin Commission pass by flow requirements are being applied statewide; Anti-degradation Manual. Water Quality Antidegradation Implementation Guidance (ID# 391-0300-002) states that it is the policy of the Department of Environmental Protection (DEP) to protect the existing uses of all surface waters, and the existing quality of High Quality (HQ) and Exceptional Value (EV) Waters.

3. Summary description of the State's or Province's Water management program scope & thresholds:

Anyone subject to Pennsylvania's Safe Drinking Water Act, Water Rights Act or Oil and Gas Act related to Marcellus Shale Development is already regulated and application covers both ground and surface water. The Great Lakes-St. Lawrence River Basin Water Resources Compact's (Act 43) enabling legislation in Pennsylvania contains specific language that is being assessed by DEP for any need for clarifying regulations to recommend to the Environmental Hearing Board. Act 220 sets the reporting threshold for all water withdrawals in Pennsylvania at 10,000 gpd. The triggers were established by Section 6 of Act 43 setting the threshold for management and regulation for all sectors:

FOR PURPOSES OF SECTION 4.10 OF THE COMPACT, THE THRESHOLD FOR MANAGEMENT AND

REGULATION SHALL BE AS FOLLOWS:

(I) ANY NEW OR INCREASED WITHDRAWAL FROM THE BASIN IN AN AMOUNT THAT EQUALS OR EXCEEDS 100,000 GALLONS PER DAY AVERAGED OVER ANY 90-DAY PERIOD;

(II) ANY NEW OR INCREASED CONSUMPTIVE USE OF WATER WITHDRAWN FROM THE BASIN IN AN AMOUNT WHICH EQUALS OR EXCEEDS 5,000,000 GALLONS PER DAY AVERAGED OVER ANY 90-DAY PERIOD; OR

(III) ANY NEW OR INCREASED DIVERSION OF WATER FROM THE BASIN.

4. Description of how the provisions of the Standard of Review and Decision are applied:

The Standard of Review and Decision was codified in Pennsylvania in Act 43 and will be applied when DEP does permitting under the statutes mentioned in Number 3 above.

5. Overview of State/Provincial reporting and database of Withdrawals, Consumptive Uses and Diversions:

Chapter 110 regulations set out acceptable mechanisms of measurement, record keeping, monitoring and reporting.

6. Withdrawal application form(s):

Applications for reporting of all withdrawals under Chapter 110 can be found at:
<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-10662> .

Water users are encouraged to use the web applications for reporting through Pennsylvania's Greenport:

<http://www.pawaterplan.dep.state.pa.us/StateWaterPlan/WaterUse/WaterUse.aspx#Link2>

<https://www.depgreenport.state.pa.us/pls/apex/f?p=ecomm:selfregallapps:2481704340092031>

The Department issues gas permits under the Oil and Gas Act which require compliance with other laws administered by DEP. The Department requires a demonstration, through the submission and approval of a Water Management Plan in connection with the gas well permit, that the gas well operator's withdrawal and use of water sources in the Commonwealth in connection with natural gas well development will not violate the Clean Streams Law's admonition against pollution. Pennsylvania case law indicates that diminution of water resources can be pollution.

Public Water Supply Permit Applications:

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-9486>

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-9484>

7. Summary description of the State's or Province's initiatives to support an improved scientific understanding of the Waters of the Basin and an improved understanding of the groundwater of the Basin and the role of groundwater in Basin water resource management:

Pennsylvania is working on several projects with The Nature Conservancy to establish processes for evaluating in-stream flow needs and management which will be usable statewide. The recently adopted Pennsylvania State Water Plan, with scheduled updates, elaborated baseline information for Pennsylvania's Great Lakes watersheds, delineating water supplies and pour points in tributary watersheds.