

Hot Topics in the River Basins

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Today's Topics

- Consumptive Use/CU Mitigation
- Grandfathering Registration Update
- Legal Proceedings to Watch
- AMD Cleanup Efforts

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Consumptive Use

- Transpiration due to irrigation, i.e. golf courses;
- Incorporation into products, i.e., concrete, beverages;
- Evaporation, i.e. power plant cooling;
- Subsurface injection, i.e., hydraulic fracturing;
- Out of basin diversion, i.e., public water supply systems with a point of return located outside the basin.



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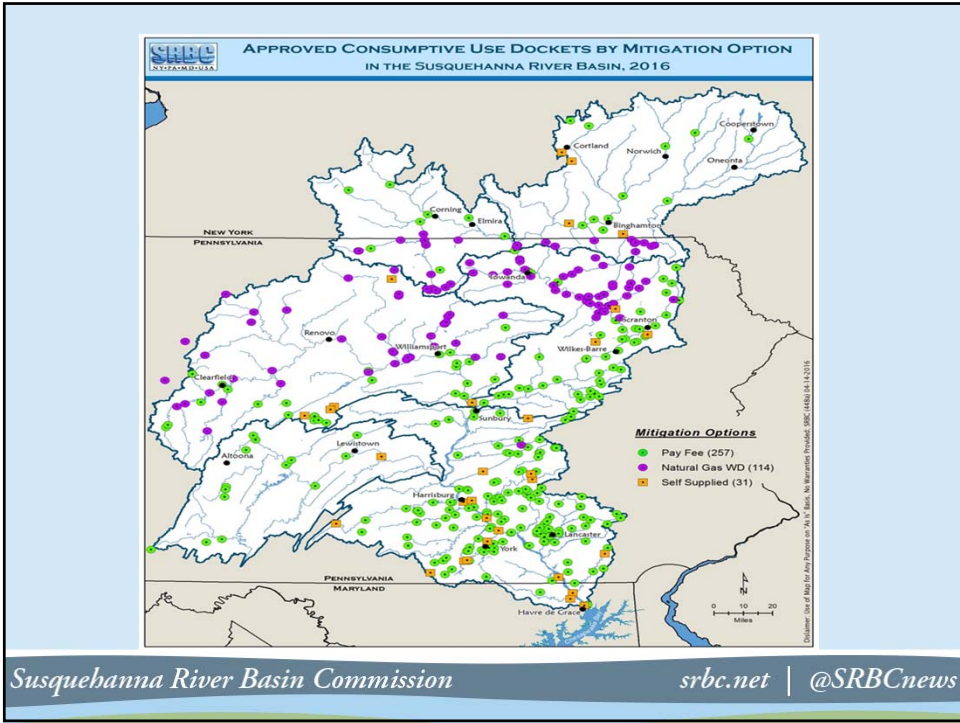
Consumptive Use Mitigation

18 CFR § 806.22(b) requires mitigation of all consumptive use subject to Commission review and approval. Mitigation may be provided by one, or a combination of the following methods:

- During low flow periods as may be designated by the Commission for consumptive use mitigation:
 - Reduce withdrawal and utilize water from alternative surface water storage or aquifers, or underground storage facilities from which water can be withdrawn for a period of 90 continuous days without impacts to surface water flows.
 - Release water for flow augmentation from surface water storage or aquifers, or other underground storage facilities from which water can be withdrawn for a period of 90 continuous days without impact to surface water flows.
 - Discontinue the project's consumptive use.
- Use a source of water from surface water storage that is subject to an acceptable conservation release.
- Provide monetary payment for actual consumptive use throughout the entire year.
- Implement other approved alternatives.

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Consumptive Use Mitigation

Project	Year Operational	Cost (\$M)	Storage Volume (ac-ft)	Release Rate (mgd)
Cowanesque	1990	\$51.0	23,494	70.5
Curwensville	1997	\$5.0	4,240	17.8
Whitney Point	2008	\$9.6	8,500	46.5
Lancashire	2011	\$10.0	614	10.0
Cresson	2019	\$10.0	1,534	5.7



Consumptive Use Mitigation

- The fundamental objective of the Commission's consumptive use mitigation program is to implement mitigation for regulated consumptive use during **critical low flow periods** to **offset** reductions in water availability in order to help protect public health and safety, avoid water use conflicts, prevent water quality impacts, sustain economic production, and support ecological flow needs throughout **the basin and its watersheds**.

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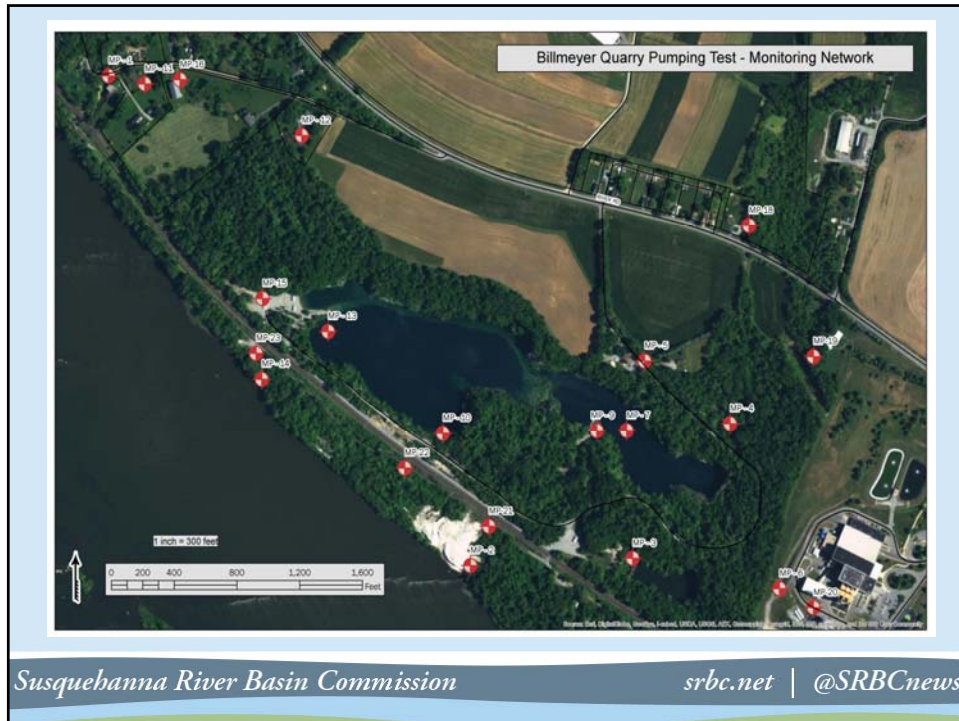
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Billmeyer Quarry Consumptive Use Mitigation Project Lancaster County, PA



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Billmeyer Quarry

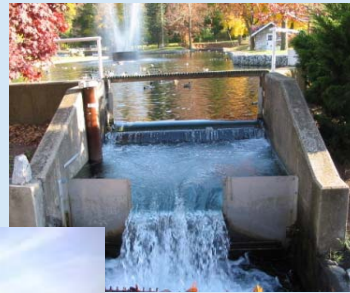
- Confirmed 425 Million Gallons of Storage that can be released during critical low flow periods.
- Total cost of project: \$ 3.2 million.



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Grandfathering Registration Update



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Grandfathering Registration Update

- Adoption of Final Rule: 82 Fed. Reg. 29387 (June 29, 2017).
- Added a Subpart E for registration of grandfathered projects
- Rule became effective July 1, 2017, except for Subpart E, which became effective on Jan. 1, 2018.

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Grandfathering Registration Update

- A grandfathered project is:
 - Consumptive Use prior to 1/23/71.
 - Groundwater Withdrawal prior to 7/13/78.
 - Surface Water Withdrawal prior to 11/11/95.
 - Combination of Sources prior to 1/1/2007.
- Generally, a grandfathered project must still be large enough to be regulated by the Commission (20,000 gpd for consumptive uses and 100,000 gpd for withdrawals).

Grandfathering Registration Update

- Our Expectations:
 - Approx. 700 Projects Registered
 - Totaling approximately 1 Billion gallons of water per day.
- The Reality So Far:
 - 351 Projects Registered
 - On face value, representing 360 million gallons of water per day.

Grandfathering Registration Update

- 351 registrations submitted

State	# of Registrations
Pennsylvania	248
New York	98
Maryland	5
Total	351

28 submitted during \$500 period (July 6 to December 31, 2018) and 5 submitted during \$1,000 period (since January 1, 2019)

Top 5 Industries	% of Total
Water Supply	50%
Golf Courses	20%
Mining, Quarrying, Concrete, etc.	7%
Agriculture & Aquaculture	6%
Schools & Correctional Institutions	5%
Total	88%



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Grandfathering Registration Update

Of the 351 submitted registrations, 97 (28%) are currently under review or a determination has been issued

Status	# of Registrations	% of Total
Inbox	254	72%
Administrative Review	26	7%
Technical Review	21	6%
Data Collection Agreement	9	3%
Determination Issued	41	12%
Total Under or Completed Review	97	28%

REGISTRATION DEADLINE
DECEMBER 31, 2019

Types of determinations issued

Determinations Issued	# of Registrations
Grandfathered	29
Below Thresholds	4
Fully Approved	8
COA / Approval Required	1
Not Eligible (Transfer)	1

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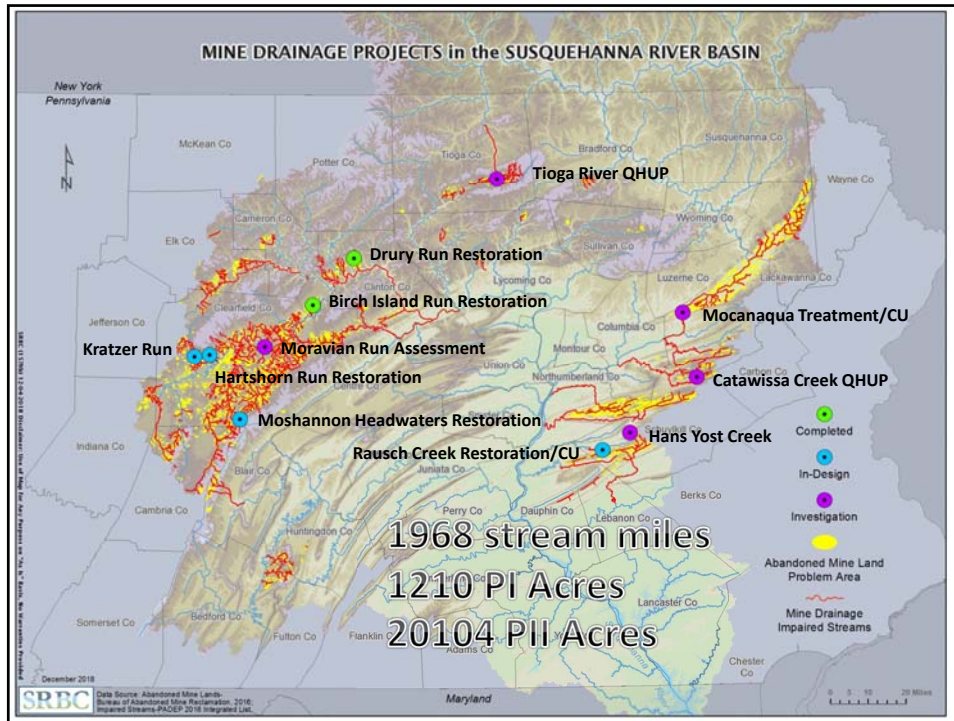
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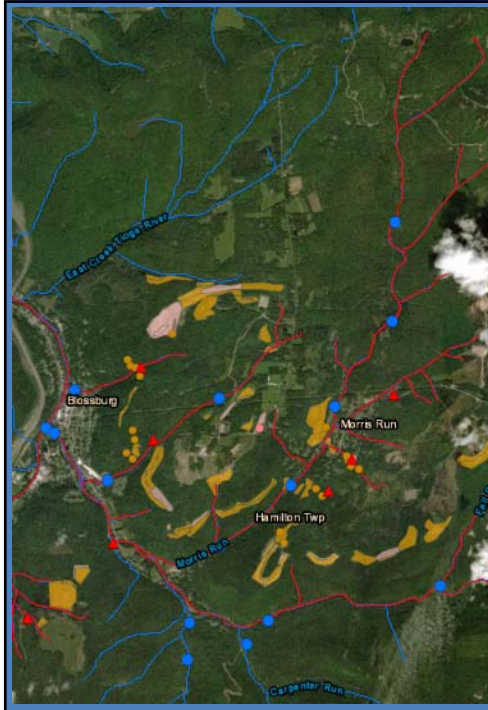
Legal Proceedings

- Exelon's Challenge to Maryland's 401 Water Quality Certification for Conowingo Dam.
 - FERC: Petition for Declaration of Waiver of Maryland 401 Certification, Docket P-405-121.
 - Petition for Reconsideration before MDE, No. 17-WQC-02.
 - *Exelon v. MDE*, Case No. 24-C-18-003410 (Md. Cir. Ct. Oct. 9, 2018)(case dismissed).
 - *Exelon v. Grumbles*, Case No. 1:18-cv-01224-RMC (D.D.C. May 25, 2018).

Legal Proceedings

- In Re: Chester Water Authority Trust, No. 19-217 (Dela. Co. C.C.P. March 1, 2019).
 - Novel Theory using Art. I, Sec. 27 to support placing public water supply generation, transmission and storage assets of the Authority into irrevocable trust.
 - Hearing set for April 24, 2019.





Tioga/Catawissa QHUP

- Qualified Hydrologic Unit Plans must be completed for watersheds to receive SMCRA Title IV funding for AML reclamation and AMD treatment system project.
- Tioga River and Catawissa Creek QHUPS will allow for SMCRA funding to be used for complete watershed restoration.
- Tioga River mainstem has the potential of being completely restored by one strategically placed active treatment system.
- Catawissa Creek mainstem can be restored by the treatment of one large discharge, the Audenreid Tunnel.

The End

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