

## SRBC Proposes Rules

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attempting to create regulations which comply with current laws and yet manage to make all who use water responsible to all other water needs in the basin.

The commission has determined that a main issue of concern is "consumptive use" of water which, in basic terms, means any use of water which makes it unavailable for return to the flows in the Susquehanna River Basin.

The evaporation-cooling tower at the Three-Mile Island Nuclear Reaction Facility in Middletown is an example of "consumptive" use. The evaporation of the water taken from the river puts it into the air, and makes it unavailable to those living downstream, who depend on certain flows of water.

Although some may take issue with the degree of consumption, in the proposed regulations agricultural uses of water are considered consumptive if water is given to livestock to drink, or if used to irrigate crops. Aquaculture is also considered a consumptive use.

In simple terms, the gist of the plan behind the proposed rules is to encourage those operations — agricultural and other consumers of water — to either create facilities which can store water that can be used during drought, adopt practices which result in conservation and storage of water flows to the river, or to pay a fee of 14 cents per 1,000 gallons.

That rate of payment is based on the estimated amount it costs the U.S. Army Corps of Engineers to store water at the Curwinstown and Cowanesque reservoirs, according to Cairo.

Currently, the SRBC pays the U.S. Army Corps of Engineers for 25,000 acre-feet of water in the Curwinstown reservoir. Then when drought comes, the power plants which need water to generate electricity pay the SRBC for the water, which is released from the reservoir.

The money is to be set aside in an escrow account and is to be used by the commission for the purchase of water or for other expenses involved with managing basin flows.

### Background

The SRBC was formed during the 1970s as a multi-state agency to oversee the use of water in the Susquehanna River Basin.

The need for a commission was and is straightforward: The boundaries created by traditional U.S. political entities were not designed to follow natural boundaries. Therefore, in order to realistically deal with a real resource, such as the water in the Susquehanna River Basin, an agency needed to be formed that could derive its authority from all political entities within the natural boundaries of the resource.

In general terms, the commission was granted the authority to regulate the uses of water within the Susquehanna River Basin by the governments of the people living in the Susquehanna River Basin, and the federal government.

The members of the commission are the heads of the respective states' agencies concerned with environmental issues, and the secretary of the U.S. Department of the Interior. However, Interior Secretary Bruce Babbitt has yet to be officially declared the federal representative.

The proposed rules are to be published in the federal register.

There are three parts to the prop-

osed regulations, which according to Cairo, are a reorganization of existing regulations and official procedures which cover the commission's review of water-use projects.

In the introduction summary of the draft Notice of Proposed Rule-making (NPRM), it is stated that the proposed regulations were created because of, "The need to improve the overall precision and clarity of regulations; the need to reorganize the regulations into an integrated format that is more readily understandable ... ; the need to add provisions covering subject matter not addressed or inadequately addressed in existing regulations; and the need to deal more effectively with certain segments of the regulated community."

Cairo stressed that the regulations do not convey any water property rights. In Pennsylvania, the water property rights law is the archaic "riparian" rights. In simple, general terms, it means that, in Pennsylvania, whomever lives closer to the water, or whomever can get the water has rights to it.

(As an aside, there are several groups attempting to have this law changed. For example, under riparian rights, in general, if a farmer's well goes dry because of other commercial or residential groundwater demands, it's too bad. Under riparian rights, those who can get to the water first — by being upstream, or using bigger and deeper pumps — have the most rights.)

What the regulations do attempt to control are the review and approval procedures for "consumptive" uses of water, groundwater withdrawals and surface water withdrawals.

They also set up special regulations on water withdrawal registration, water conservation standards, the procedures of public hearings and how penalties are to be imposed.

The wording in the regulations is ambiguous in that it provides the commission, its director and staff with the discretion to determine what is "significant" and to make a determination as to what "may have an adverse or adverse cumulative effect on the water resources of the basin."

According to Cairo, the commission must have this authority of making case-by-case decisions, based on sound, scientific principals, and pertinent information because of the variety of situations which exist, or can come to exist.

Also, there is an appeals process to commission decisions included in the proposal.

In the introductory material provided with the proposal, it states that existing regulations used by the commission in its project review process were created over the course of several years and are not necessarily consistent.

"As a result of this piecemeal promulgation, general procedures for review of projects ... do not always mesh cleanly with the more specific requirements of the special regulations on consumptive use and ground-water withdrawals."

It goes on to outline major areas of confusion by those involved in the process, from those who desire to conduct a project to those in other state agencies who may have related authorities.

"The commission attempted to correct these types of deficiencies with certain regulatory amend-

ments adopted in 1990; however, the confusion persists in the regulated community and even among the signatory party agencies who cooperate with the commission in the management of the river basin's water resources.

According to the introduction, under the current wording in the rules of application procedure, "as it is presently written, directs the sponsors of certain types of projects to apply to the commission, though ultimately these projects may not require commission approval.

"This has been a constant source of confusion, as applicants and others who work with the regulation find it difficult to distinguish the application process from the approval process."

The proposed regulations attempt to make clear which projects require commission approval, while also providing a section to cover projects which may or may not require approval (In that case, a determination is to be made by the SRBC executive director.)

New rules proposed as part of the package would also create a requirement for registration of water withdrawal if the amount exceeds 10,000 gallons per day (gpd). The registration basically is so that the commission has a better

data base of who is using water and how much is being used at lower levels than might otherwise be considered significant.

Also, the proposal cites a need for clarity in agricultural water use as a legitimate area of concern.

"A final reason for this package ... is the need to deal more effectively with certain segments of the regulated community.

"For example, the existing consumptive use regulation 803.61 applies to agricultural activities such as crop irrigation. Nevertheless, agricultural compliance with the regulation has been spotty and inconsistent due mainly to a lack of knowledge of the regulation in the agricultural community and SRBC enforcement limitations.

"When the commission made an affirmative effort to inform the agricultural community of these requirements, agriculture quickly responded on the need for adjustments in the regulation to take into account the special compliance problems faced by farmers.

"As a result, special provisions have been included in the revised consumptive use regulation extending a 50 percent compliance credit to agricultural consumptive users as an incentive for their up front compliance with the regulation."

Complete copies of the draft of

proposed rules should begin being circulated through different agencies and to representatives of agricultural organizations.

According to Cairo, a series of public hearings has been scheduled to be held within the watershed by the commission in order to receive comments on the proposed rules.

Also, written comments on the proposal will be accepted by the commission until August 1, 1994. Send comments to: Richard Cairo, General Counsel/Secretary, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102-2391.

The scheduled hearings are:

- June 23, 1:30 p.m., at the Fred L. Waterman Conservation Education Center, Hilton Road, Apalachin, N.Y.

- June 23, 7 p.m., same place.

- June 24, 10 a.m., in the auditorium of the Pennsylvania Game Commission Headquarters Building, 2001 Elmerton Ave., Harrisburg. It is located about five miles from the PDA headquarters building in Harrisburg.

- June 24, 7 p.m., at the SRBC Headquarters Building, 1721 N. Front St., Harrisburg.

- July 14, 1:30 p.m., at the Tidewater Inn, Easton, Md. This hearing will follow a regular meeting of the commission, which starts at 9 a.m.

## Milk Prices Decline, BST Not To Blame

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California, now the leading milk producing dairy state and the second leading cheese producer, produced 8.4 percent more milk in April than a year ago.

This was accomplished with 2.4 percent more cows and 5.9 percent more milk per cow.

The question is, was BST responsible for this strong increase in milk per cow?

### Better Conditions Produce More Milk

The answer is that very favorable weather for milk production and good quality feed are the primary facts for strong milk production per cow in California.

California produced 160 million pounds more milk this April than last, while Wisconsin produced 146 million pounds less milk.

Overall, California produced 211 million pounds more milk than Wisconsin did in April.

California produced this much more milk than Wisconsin with 405,000 fewer milk cows than Wisconsin. California averaged 465 pounds more milk per cow.

April compared to a year ago shows Idaho with 7.6 percent more cows, 6.5 percent more milk per cow and an increase in total milk of 14.9 percent.

Washington had 1.6 percent more milk cows, 1.8 percent more milk per cow and 3.6 percent more total milk.

Florida reported a few more milk cows, 6.8 percent more milk per cow and 7.3 percent more total milk.

And Texas had 2.9 percent more milk cows producing 7.6 percent more milk per cow and 10.7 percent more total milk.

Milk plant capacity has been exceeded in the West and Southwest. Surplus milk has moved out of the states to other states with manufacturing plants, some as far as Wisconsin.

Nonfat dry milk plants in the West are at capacity. The extra nonfat dry milk production has weakened nonfat dry milk prices and West Coast nonfat dry milk is being sold at support prices to the Commodity Credit Corporation.

Some milk in California and Texas that could not immediately find a plant outlet had to be dumped.

### BST Not To Blame

In each of these states, BST is only a small contributing factor to more milk production.

This may be partially verified by two factors.

First, some areas of California

where milk production is up substantially are the same areas where milk plants had a moratorium on BST use by their producers.

Second, milk per cow and total milk production has not shown similar increases in the Northeast where there are reports of greater adoption of BST than Western and Southern states.

Compared to last year, April milk per cow was up just 1.9 percent for New York and down 1.7 percent for Pennsylvania.

Both New York and Pennsylvania had fewer milk cows, down 1.2 percent and .3 percent respectively. As a result, New York produced just .7 percent more milk, and Pennsylvania had a 1 percent decline.

Of the 21 reporting states, 11 did produce less total milk than April a year ago. Ten had fewer milk cows and 11 had less milk per cow. So milk expansion is concentrated in those Western and Southwestern states.

In summary, for the 21 reporting states, April compared to year ago, milk cow numbers were down 1.7 percent, milk per cow was up 2.3 percent and total milk production was up .6 percent. Total milk production for the period of January through April was down .3 percent.

### Pennsylvania Livestock Auction

Waynesburg, Pa.

Thurs., May 19, 1994

Report Supplied by Auction

CATTLE: SL COWS: UTILITY & COMMERCIAL 46.00-52.00; CUTTER & BONING UTILITY 41.00-46.50; CANNER & LOW CUTTER 39.00-43.50; SHELLS 38.50 & DOWN. BULLS: YIELD GRADE 1 1500#-1870# 50.00-70.00; YIELD GRADE 2 1000#-1400# 48.00-57.00.

FEEDER STEERS: M&L-1 300-500# 70.00-96.00; 250-280# 75.00-106.00, M 900-1000 55.00-68.00. HEIFERS M 1&L-1 300-500# 70.00-95.00; L-1 400-650# 60.00-85.00. BULLS M&L-1 300-620# 58.00-90.00.

CALVES: VEAL.. PRIME 80.00-100.00; CHOICE 74.00-90.00;

GOOD 60.00-72.00.

FARM CALVES: #1 HOLSTEIN BULLS 90-120# FEW 100.00-120.00; #2 HOLSTEIN BULLS 80-100# FEW 75.00-100.00; BEEF X BULL&HFRS./HD. 75.00-150.00.

HOGS: BARROWS & GILTS #1-2 210-255# 40.00-41.00; #2-3 255-280# 35.00-39.00; SOWS #1-3 300-500# 32.00-40.00.

FEEDER PIGS: 1-3 25-35# 12.00-30.00/HD.

LAMBS: HIGH CHOICE 55-75 LBS. 60.00-78.00; CHOICE 90-105# 65.00-75.00; FEEDER LAMBS GOOD 60.00-75.00; EWES 15.00-40.00.

GOATS: LARGE 35.00-75.00/HD.; MEDIUM 25.00-40.00/HD.; SMALL 10.00-30.00/HD.

HORSES: 45.00-70.00, PONIES 20.00-50.00.

### Indiana Livestock

Thursday, May 19, 1994

Report supplied by Auction

BEEF: HEIFERS GOOD 64.00-67.50, MEDIUM 60.00-63.50, COMMON 60.00 DOWN. STEERS: GOOD 67.00-69.00, MEDIUM 64.00-67.00, COMMON 63.00 DOWN. COWS: GOOD 51.00, MEDIUM 45.00-50.00, COMMON 43.00 DOWN. BULLS: BUTCHER 58.00, BOLOGNA 55.00-57.50.

FEEDERS: GOOD 300 LB. 70.00-85.00, MEDIUM 500-600 LB. 70.00-72.00, COMMON 60.00-68.00.

CALVES: 85-115 LB. (BULLS) 110.00-145.00, 85-115 LBS. (HFRS) 135.00-190.00, 80 LB. UNDER 65.00-80.00, 120 LBS. OVER VEAL 95.00-105.00.