

CONSUMPTIVE USE MITIGATION: DISCONTINUANCE

OVERVIEW

The waters of the Susquehanna River Basin are used for many purposes — domestic, municipal, agricultural, commercial, industrial, energy, environmental, and recreational. Water that is used and not returned to the basin is defined as being consumptively used. The water loss may be due to a variety of processes including evaporation, transpiration due to irrigation, incorporation into manufactured products or injection underground.

Consumptive users regulated by the Susquehanna River Basin Commission (Commission or SRBC) are required to mitigate the impacts of their use and submit a plan for that mitigation. Mitigation minimizes the impacts of Commission-approved consumptive uses during critical low flow periods. While the intent of the program is not to fully offset the water resource impacts of droughts, which occur naturally in varying degrees of severity,

mitigation can help protect public health and safety, avoid water use conflicts, prevent water quality degradation, sustain economic production, and support ecological flow needs throughout the basin. Traditionally, mitigation methods for regulated projects include on-site conservation releases and payment of fees used to develop, maintain and operate storage reservoirs throughout the basin that can be used to make mitigation releases, as needed, during low flow periods.

In March 2020, the Commission adopted a Consumptive Use Mitigation Policy (SRBC Policy No. 2020-01) that includes contemporary standards for mitigation planning and an expanded scope of mitigation options. Of particular interest to some projects, the policy also revises the Commission's approach to discontinuance of a project's consumptive use as one of those mitigation options.

What is the Policy Regarding Discontinuance?

A project may propose to discontinue exceeding the consumptive use regulatory threshold from direct withdrawal sources during a Commission-designated low flow period as its method of consumptive use mitigation. Water use from off-stream storage and withdrawals for non-consumptive uses and operations may continue unaffected. Discontinuance of use provides physical mitigation at the project site during Commission-designated low flow periods, thereby avoiding both local and basinwide adverse impacts associated with the consumptive use. It also does not depend on any further action by the Commission or project. Accordingly, discontinuance is recognized as the most effective method for consumptive use mitigation.

For projects other than natural gas development projects, reduction of consumptive use from direct withdrawal sources to a peak day quantity of less than 20,000 gallons per day (gpd) during low flow periods satisfies mitigation requirements. Reducing peak day source withdrawals to less than 20,000 gpd during designated low flow periods allows continued operations at a level that is considered to be locally de minimis. During designated low flow periods, projects may continue to use water from off-stream storage for consumptive use above 20,000 gpd and within their approved consumptive use limit.



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WHY IS IT IMPORTANT TO REGULATE CONSUMPTIVE USE?

The Commission adopted consumptive use regulations in 1976 to help manage water resources and reduce human impacts caused by consumptive use during low flows. Although droughts are naturally occurring events that cannot be prevented, one of the Commission's roles is to minimize the impacts to natural flow conditions. Regulated consumptive users are required to mitigate for impact from their use during a Commission-designated low flow period and must submit a plan for that mitigation in the application. Several options are listed in regulation and provisions are in place to allow a project sponsor to propose and implement another alternative approved by the Commission.

The primary methods utilized by approved projects are:

- ◀ reduce the withdrawal in an amount equal to the consumptive use and withdraw from alternative surface or underground storage facilities;
- ◀ release water for flow augmentation in an amount equal to the consumptive use, from surface or underground storage facilities;
- ◀ discontinue the project's consumptive use;
- ◀ use a consumptive use source that maintains a conservation release; and
- ◀ provide monetary payment for annual consumptive use.

Monetary payments for consumptive use go into a special water management fund that is used to investigate, develop, and maintain Commission-controlled water storage and other alternate strategies for mitigating the cumulative impacts of consumptive use throughout the basin.

How Can Discontinuance Apply to My Project?

A project may request discontinuance as its mitigation method in its new or renewal application for consumptive use. Alternately, a project with an existing approval may apply for a minor modification to the approval to request discontinuance as its mitigation method. Discontinuance would become a condition in the project's approval, and the details would be outlined in the project's Consumptive Use Mitigation Plan, which would be approved with the application or modification. Projects interested in having discontinuance as their mitigation method should contact the Commission's project review staff.

Example Project

A golf course has a consumptive use approval with discontinuance as the project's mitigation method.

- A minimum of one (1) week prior to a potential Commission-designated low flow period, Commission staff will provide written notice to all projects alerting them to the pending potential need to implement on-site mitigation.
- In the event of low flow conditions continuing to worsen, Commission staff will then provide written notice once a mitigation period is in effect.
- Once mitigation is required, the project will either cease direct withdrawals altogether or reduce withdrawals directly from its water source to no more than 20,000 gpd, each day, during the low flow period. In addition to direct withdrawals at or below 20,000 gpd, the project may utilize water stored in its off-stream pond or other storage supply, for irrigation up to the project's approved consumptive use limit.

If the project cannot reliably maintain mitigation through discontinuance, they should contact Commission staff to discuss alternatives or evaluate if the mitigation method should be changed.

Special Circumstances – Other Options

The Commission recognizes that some projects may have only a single source of water for consumptive use and that withdrawal source has a passby flow requirement. Where a project sponsor requests to mitigate by discontinuing its use below 20,000 gpd and does not have sufficient storage or alternative sources without passby flows, the Commission would consider that a pertinent factor in a case-by-case determination of whether the low flow protection requirements would strictly apply to its water withdrawal under the Commission's Low Flow Protection Policy. Projects with special circumstances should consult with Commission staff.

