

The Interstate Compact Approach To Watershed Governance



Sept 6, 2012

EFC Technical Assistance Partnership Forum

First: A Little History and a Little Constitutional Law

- Founding Fathers
- Reservation of Powers
- Concern about Sovereign Bullies
- Compact Clause, Article 1, § 10
- Congressional Consent

Susquehanna River Basin Compact

- New York, Maryland, Pennsylvania and the United States
- P.L. 91-575, December 24, 1970
- Initial Term: 100 years
- Federal-Interstate Compact Commission
- Four Commissioners, all with full voting authority

Compact Purpose

“The water resources of the basin are subject to the sovereign rights and responsibilities of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of these powers of sovereignty in the common interest of the people of the region.”

Major Commission Authorities

- Water Resource Management
- Water Allocations
- Interstate Water Allocations
- Diversions
- Planning Functions

Regulatory Authorities

- Groundwater withdrawals $\geq 100,000$ gpd*
- Surface water withdrawals $\geq 100,000$ gpd*
- Consumptive Use $\geq 20,000$ gpd*
- Diversions
 - In-basin: any amount
 - Out-of-basin: $\geq 20,000$ gpd*
- Natural gas - gallon one

** Threshold amounts based on 30 day averages*

Standards for Water Withdrawals

- Withdrawals subject to review may be limited conditioned or denied to avoid significant adverse impacts.
- Limitations or conditions may be imposed on the quantity, timing or rate of withdrawal or level of drawdown.

Passby Flow Determinations

- Instream flow needs
- Cumulative water demand
- Passby flow condition established
- Based on existing or designated uses
- Low Flow Protection Policy - under review

Consumptive Use

- Cumulative impact, flows to Chesapeake Bay
- Mitigation standard: 1 - 1
- Mitigation options: releases from storage, discontinuance, fee option
- Low flow augmentation

Water Quality Management

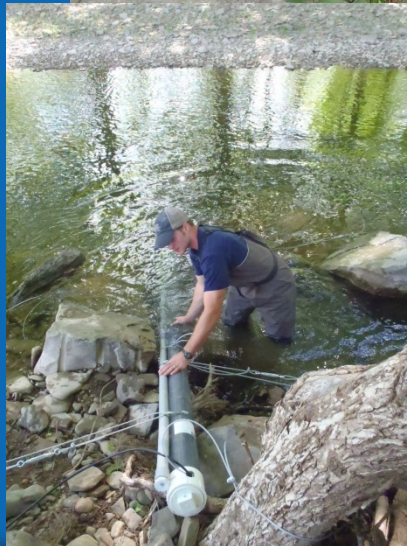
- Reliance on member jurisdictions to establish standards and institute management controls.
- Compact Article 5, Water Quality Management and Control, Section 5.2(b):

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.

- Monitoring and assessment support function.

Remote Water Quality Monitoring Network

Real Time Continuous Monitoring
Conductance
Temperature
PH
Dissolved Oxygen
Turbidity
Depth



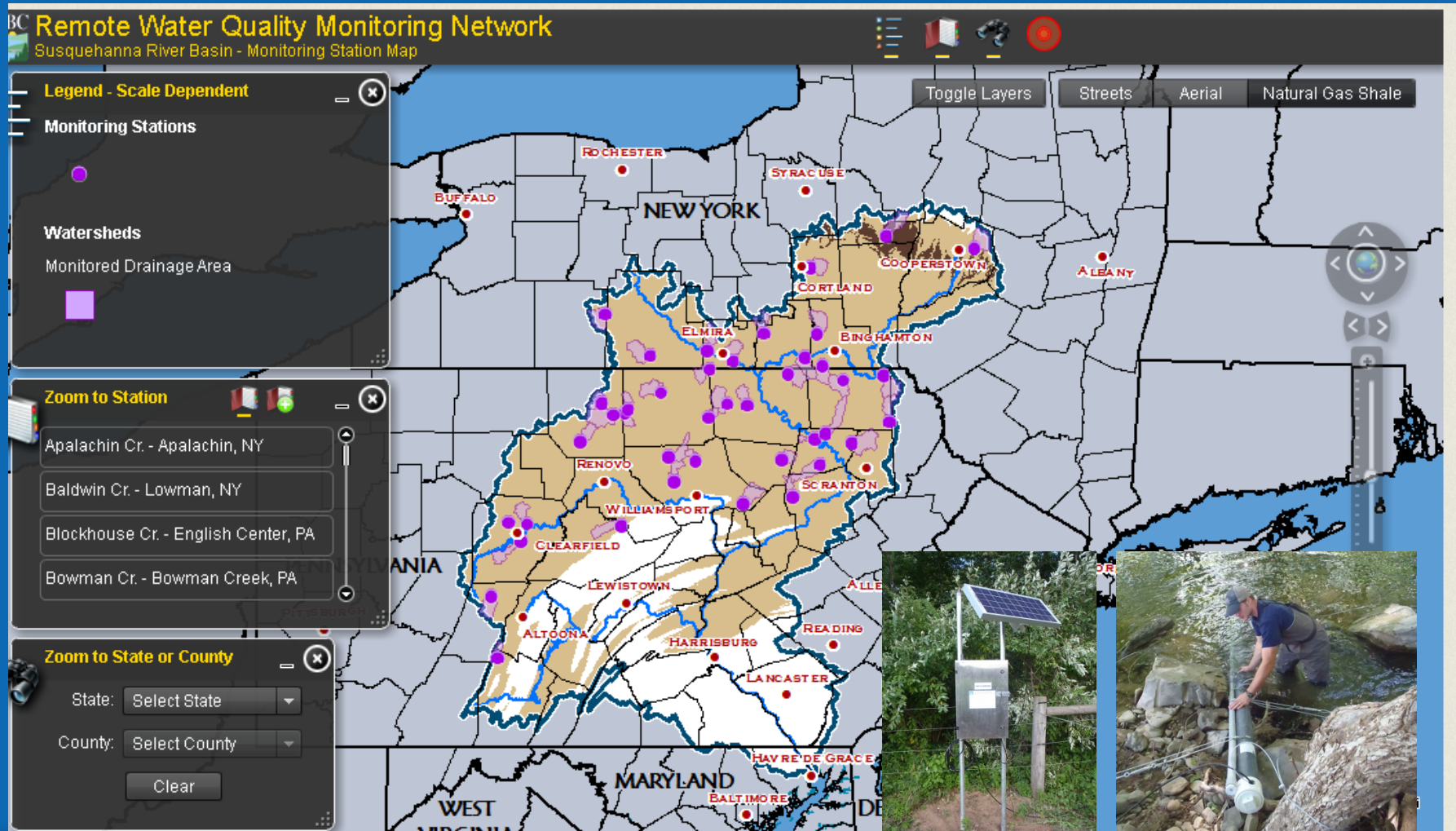
Remote Water Quality Monitoring Network

- Real-time monitoring at 51 stations.
- Establishing baseline water quality data in targeted areas.
- Provides transparency.
- Service and recalibration every 6 to 8 weeks.
- Sampling for lab analysis bi-monthly: acidity/alkalinity, chloride, barium, aluminum, TDS, sulfate and TOC.
- Quarterly sampling: calcium, magnesium, sodium, potassium, nitrate, phosphorus, carbonate and bi-carbonate alkalinity, carbon dioxide, bromide, strontium, lithium, and gross alpha and beta.

Real-Time Data

Remote Water Quality Monitoring Network

www.srbc.net/programs/remotenetwork.htm



JOINT EXERCISE OF SOVEREIGNTY

- Compact Article 1, Section 1.3(2):

The water resources of the (basin) are subject to the sovereign rights and responsibilities of the signatory parties and it is the purpose of this compact to provide for a joint exercise of those powers of sovereignty in the common interest of the people of the region

- Reference to “*those powers*” relates to water resources, not all sovereign authority.

JOINT EXERCISE OF SOVEREIGNTY

- Delegation of sovereign authority does not extend to that exercised over natural resource extraction.
- Absent federal pre-emption, the states retain sovereign authority to regulate extraction activity, such as coal mining, quarrying, sand & gravel, oil & gas, timber harvesting, etc.
- Commission's role is to regulate water use associated with that activity – and that's not likely to change – no shale gas moratoria.

CUMULATIVE IMPACT ANALYSIS

- Compact Article 3, Section 3.3 & Article 14, Section 14.1.
- Power and duty to adopt Comprehensive Plan for the immediate and long range development and use of the water resources of the basin.
- New 15 year plan adopted in 2008, updating in 2013.
- Current cumulative impact analysis effective, although the current assertion is to expand to all aspects of shale gas development.
- The NEPA issue looms next door.

On-Line Resources - Water Resource Portal

Water Resource Portal

Susquehanna River Basin Commission

Pending Applications and Approved Projects

Welcome to SRBC's Water Resource Portal, which was set up to enhance the public's access to information on projects regulated by SRBC. Through this portal, you will*: (1) find the status of pending and approved projects; (2) be able to view and download certain pending applications; (3) be able to view and download all SRBC approvals; and (4) find the list of approved water sources for the natural gas industry, by project sponsor. You can also sign up via RSS Feed to receive electronic notices of pending projects.

(*For a description of what is intended to be available on this portal, please view the information under What to Expect from the Water Resource Portal.

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Water Resource Portal

Susquehanna River Basin Commission

Search for Projects

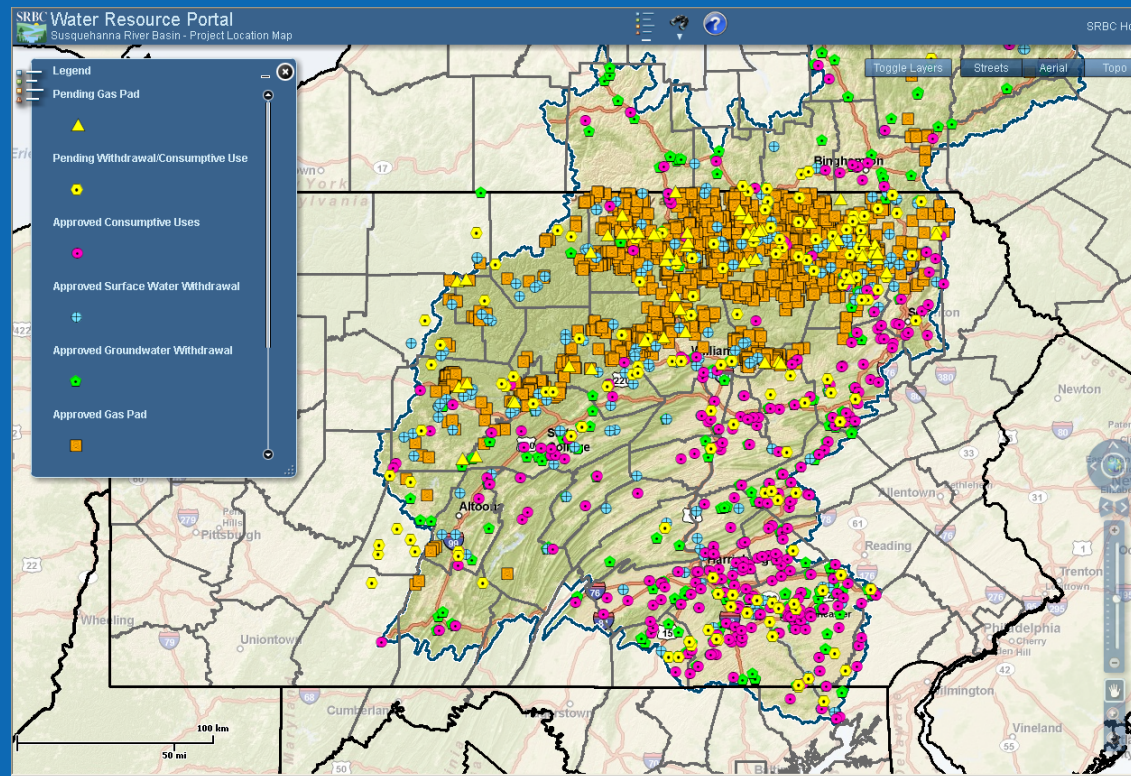
[Portal Home](#) | [Search for Projects](#) | [Project Location Map](#) | [Approved Source List](#) | [What to Expect from the Water Resource Portal](#)

Project Sponsor:

Project Identification Number:

Project Status: ☒ All Projects ☐ Approved Projects ☐ Pending Projects

www.srbc.net/wrp/Default.aspx



Questions?

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