

PERFORMANCE AUDIT REPORT

Susquehanna River Basin Commission

November 2018



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General

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EUGENE A. DePASQUALE
AUDITOR GENERAL

October 23, 2018

The Honorable Basil Seggos
Chair
Susquehanna River Basin Commission
4423 North Front Street
Harrisburg, PA 17110-1788

The Honorable Andrew D. Dehoff, P.E.
Executive Director
Susquehanna River Basin Commission
4423 North Front Street
Harrisburg, PA 17110-1788

Dear Commissioner Seggos and Executive Director Dehoff:

This report contains the results of the Department of the Auditor General's performance audit of the Susquehanna River Basin Commission (SRBC).

This audit was conducted under the authority of Article XVII-F, Subarticle B of The Fiscal Code as enacted by Act 44 of 2017.¹ Specifically, Section 1715-F(1) of The Fiscal Code provides that, "[t]he Auditor General shall audit the Susquehanna River Basin Commission" during the fiscal year ended (FYE) June 30, 2018. Our audit was limited to the objectives identified below and was not required to be and was not conducted in accordance with Government Auditing Standards issued by the Comptroller of the United States.

¹ 72 P.S. § 1715-F(1). Article XVII-F pertains to the 2017-2018 Budget Implementation. Further, pursuant to Section 410 (entitled Audits of interstate commissions) of The Fiscal Code, for purposes of Section 15.11 of the "Susquehanna River Basin Compact Law," the Auditor General "shall be deemed to be a duly authorized officer on behalf of the commonwealth as a signatory party for the exclusive purpose of examining and auditing all of the books, documents, records, files and accounts and all other papers, things or property" of the SRBC. The designation shall be in addition to any other duly authorized officer of the commonwealth under the compact. *See* 72 P.S. § 410(a) and 32 P.S. § 815.101 (SRBC Compact).

The Fiscal Code specified the following six objectives, and the audit period was July 1, 2016 through June 30, 2017:

- I. The cost of salaries, benefits, and other compensation provided to the officers and employees of the SRBC.
- II. The cost of expense reimbursements provided to the officers and employees of the SRBC.
- III. Other fixed and variable costs of the SRBC.
- IV. The potential for improved efficiencies and overall cost reductions, including an analysis of duplication of commonwealth efforts and the ability to share equipment, services, or personnel with commonwealth and local agencies.
- V. Contributions to the SRBC by the commonwealth or any person within this commonwealth, whether via appropriations, fees, penalties or otherwise, in comparison to other signatory parties.
- VI. The impact of the fees and penalties of the SRBC on public and private entities within the commonwealth.

We planned and performed audit procedures to obtain sufficient, appropriate evidence to the extent necessary to satisfy the above audit objectives. We believe that the evidence obtained provides a reasonable basis to support our results, findings, and conclusions.

This report presents three findings and 13 recommendations to the SRBC to improve transparency with its finances, ensure all of its expenses are necessary and reasonable while avoiding extravagant costs, work with the Pennsylvania Department of Environmental Protection (DEP) to update an outdated Memorandum of Understanding (MOU), publicly provide more information to explain the inter-relationship between the DEP and the SRBC, work with the signatory parties to pay the full amount of their agreed upon contributions, and remain cognizant of the impact of fees charged to organizations that work with the SRBC.

We determined the amount of expenses the SRBC paid for salaries, benefits, other compensation, and expense reimbursements to the SRBC's officers and employees; and other fixed and variable SRBC costs. During our review of travel and subsistence reimbursements, we found questionable expenses related to catering at SRBC meetings, charges for alcoholic beverages and extravagant food expenses at Commission meetings, and additional award programs, benefits, and events offered to SRBC staff. Also, we found a lack of transparency in that the SRBC's audited financial statements are not posted on its website.

We found that a much needed overhaul of the almost 20-year-old MOU between the SRBC and the DEP, as well as additional written operational guidance, would assist in the cooperative functioning between these entities. With regard to duplication of efforts between SRBC and DEP, management from both agencies stated that the work between the SRBC and the DEP are complimentary and/or augmentative in nature; however, both the SRBC and the DEP identified an area of overlapping legal authority pertaining to water withdrawals. SRBC

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management acknowledged that there may also be appearances of duplication of efforts when in fact there is none. An update to the MOU would help to clearly differentiate each agency's responsibilities and ensure that the SRBC defers to the DEP regarding examining water quality.

We further determined the amount of revenue the SRBC received from various sources and compared the revenue the SRBC received in fees and penalties from organizations within Pennsylvania to those received from organizations within the other state signatory parties. We also contacted Pennsylvania organizations that paid fees and/or penalties to the SRBC and inquired as to the impact of making those payments had on their organization. We found that none of the signatory parties paid the agreed upon amount to the SRBC in fiscal year ended (FYE) June 30, 2017. Notably, the federal government has not made any contribution payments to the SRBC since the FYE June 30, 2009.

SRBC management stated that in light of the current lack of funding being provided by signatory parties, the SRBC may need to consider reducing/eliminating discounts offered to municipal authorities. This could negatively impact Pennsylvania's public authorities that have dockets with the SRBC in the form of increased fees. Additionally, while SRBC management indicated the reduced contributions have not affected fees charged to project applicants and docket holders to date, it must balance revenues with its expenses, which could ultimately result in increased fees. With Pennsylvania accounting for over 96 percent of the docket holders, any future increases in fees will have a negative financial impact on these Pennsylvania organizations.

In closing, I want to thank the SRBC for their cooperation and assistance during this audit. The SRBC is generally in agreement with our findings and most of our recommendations, and its response can be found included in this audit report. We will follow up at the appropriate time to determine to what extent all recommendations have been implemented.

Sincerely,



Eugene A. DePasquale
Auditor General

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Susquehanna River Basin Commission

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Executive Summary

The Susquehanna River Basin Commission (SRBC) is a federal-interstate compact commission jointly controlled by the federal government and the three signatory states that acts as a regional authoritative body to oversee the management of the Susquehanna River Basin (Basin) and its resources. The daily operations of the SRBC are managed by executive staff with support from technical, administrative, and clerical personnel. The SRBC identified the following four positions as officers of the Commission: Executive Director; Deputy Executive Director; Director of Administration and Finance; and the Secretary to the Commission.

The six objectives of our performance audit of the SRBC were to determine: (1) The cost of salaries, benefits, and other compensation provided to the officers and employees of the SRBC; (2) The cost of expense reimbursements provided to the officers and employees of the SRBC; (3) Other fixed and variable costs of the SRBC; (4) The potential for improved efficiencies and overall cost reductions, including an analysis of duplication of Commonwealth efforts and the ability to share equipment, services, or personnel with Commonwealth and local agencies; (5) Contributions to the SRBC by the Commonwealth or any person within this Commonwealth, whether via appropriations, fees, penalties or otherwise, in comparison to other signatory parties; and (6) The impact of the fees and penalties of the SRBC on public and private entities within the Commonwealth.² Our audit period was July 1, 2016 through June 30, 2017.

Our audit results are contained in three findings with 13 recommendations to the SRBC. Overall, the SRBC generally agrees with our three findings and 11 of our 13 recommendations.

Finding 1 - Determination of the SRBC's costs of salaries, benefits, other compensation; expense reimbursements to the SRBC's officers and employees; and other fixed and variable SRBC costs; including certain questionable expenses.

We determined the amount of expenses the SRBC paid for salaries, benefits, other compensation, and expense reimbursements to the SRBC's officers and employees; and other fixed and variable SRBC costs. We specifically report on the amounts paid to the SRBC's four officers and its employees including payments for the SRBC's awards program. Our review of travel and subsistence reimbursements found charges specifically related to the officers to be reasonable; however, we question expenses related to catering various SRBC meetings.

With regard to Commission meeting expenses, we found charges of \$1,001 for alcoholic beverages and extravagant food expenses. The SRBC should discontinue the practice of paying for alcoholic beverages at Commission meetings and ensure that the costs of catered meals are not excessive. Further, the SRBC could not provide itemized receipts to support \$2,187 of

² 72 P.S. § 1715-F(2) (Act 44 of 2017).

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Commission meeting expenses from restaurants. As a result, we were unable to determine if any of those charges were for alcohol or extravagant food expenses. SRBC management should ensure that itemized receipts are submitted and reviewed for all transactions prior to being processed for payment. We also found questionable expenses relating to costs associated with additional benefits/events beyond the award programs offered to SRBC staff, including a summer picnic and holiday party. SRBC management should re-evaluate if these benefits/events are necessary and justifiable given their purported revenue shortfalls. Finally, we found that the SRBC could improve transparency and eliminate the need for requests for financial statements by making its financial statements accessible online.

Finding 2 – A much needed overhaul of the almost 20-year-old Memorandum of Understanding and additional written operational guidance between the SRBC and the DEP would assist in the cooperative functioning between these entities.

While we found that the SRBC established regulations relating to the standards and procedures used by the SRBC for the review and approval of water resources projects and related enforcement and oversight activities, approved resolutions, and policies and guidelines, the SRBC's Memorandum of Understanding (MOU) with Pennsylvania's Department of Environmental Protection (DEP) does not adequately address gaps in the SRBC's Compact and needs to be updated. Therefore, the SRBC should work with the DEP to update the outdated MOU into an "intergovernmental agreement" as provided for in the Pennsylvania Department of General Services' (DGS) *Procurement Handbook*. We also recommend consolidating all of the SRBC's criteria into one comprehensive manual and posting an outline of the responsibilities and procedures performed by the SRBC compared to the DEP on the SRBC's website in an effort to improve communications.

Regarding duplication of efforts between the SRBC and the DEP, while management from both agencies stated that the work between the SRBC and the DEP are complimentary and/or augmentative in nature, both the SRBC and the DEP identified an area of overlapping legal authority pertaining to water withdrawals. SRBC management acknowledged that there may also be appearances of duplication of efforts. While the overlapping of authority or appearances of overlapping operations may not be a duplication of efforts, the MOU should be updated to clearly differentiate between the DEP's and the SRBC's responsibilities and ensure that the SRBC defers to the DEP regarding examining water quality. Management from both agencies stated that sharing personnel or equipment used in daily operations would not be feasible. Finally, during a survey from a cross-section of Pennsylvania organizations that hold dockets with the SRBC, one organization had concerns regarding fees charged by each agency being duplicative. This confusion could be avoided by providing written guidance explaining the inter-relationship between the DEP and the SRBC.

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Finding 3 – Signatory parties, including Pennsylvania, are not making agreed upon contributions to the Susquehanna River Basin Commission, with the federal government making no annual payments since 2009.

We determined the amount of revenue the SRBC received from signatory party contributions, fees, penalties, water sales, and other revenue during our audit period, as well as the amounts paid by each signatory party during the last five fiscal years. None of the signatory parties, including Pennsylvania, paid the agreed upon amount to the SRBC in fiscal year ended (FYE) June 30, 2017. In particular, the federal government has not made any contribution payments to the SRBC since the FYE June 30, 2009. As a result, the SRBC may need to consider reducing/eliminating municipal discounts which could negatively impact Pennsylvania's public authorities. Therefore, we recommend that the SRBC work with the signatory parties regarding payment of the full amount of their agreed upon contribution necessary for the SRBC's expense budget and consider developing a new agreement among the signatory parties.

We compared the number of active dockets held by organizations to the total fees and penalties paid by those organizations within each signatory party state. Docket holders within Pennsylvania account for over 96 percent of all SRBC dockets. Therefore, we found it reasonable that Pennsylvania would account for over 90 percent of both the total fees and the penalties and settlements assessed to all docket holders.

Finally, we conducted a survey of a cross-section of Pennsylvania organizations holding dockets with the SRBC. Of the seven organizations responding, representatives from three (43 percent) stated that their organizations have been negatively impacted by SRBC fees and penalties; therefore, the SRBC should evaluate the current fee schedule to determine if the amounts assessed are required to cover the cost of necessary operations and if any changes can be made to fees to assist in alleviating the negative impact of fees on organizations.

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Introduction and Background

This report by the Department of the Auditor General presents the results of the performance audit of the Susquehanna River Basin Commission (SRBC).³ This audit was conducted under the authority of Article XVII-F, Subarticle B of The Fiscal Code, as enacted by Act 44 of 2017.⁴ Specifically, Section 1715 F(1) of The Fiscal Code provides that, “[t]he Auditor General shall audit the Susquehanna River Basin Commission” during the fiscal year ended (FYE) June 30, 2018. Our audit period was July 1, 2016 through June 30, 2017, and focused on the following six objectives as specified in The Fiscal Code:

- I. The cost of salaries, benefits and other compensation provided to the officers and employees of the SRBC.
- II. The cost of expense reimbursements provided to the officers and employees of the SRBC.
- III. Other fixed and variable costs of the SRBC.
- IV. The potential for improved efficiencies and overall cost reductions, including an analysis of duplication of commonwealth efforts and the ability to share equipment, services, or personnel with commonwealth and local agencies.
- V. Contributions to the SRBC by the commonwealth or any person within this commonwealth, whether via appropriations, fees, penalties, or otherwise, in comparison to other signatory parties.
- VI. The impact of the fees and penalties of the SRBC on public and private entities within the commonwealth.

In the sections that follow, we present background information related to the SRBC.

Susquehanna River Basin Commission

The SRBC is a federal-interstate compact commission jointly controlled by the federal government and the three signatory states that acts as a regional authoritative body to oversee the management of the Susquehanna River Basin (Basin) and its resources. The SRBC, which is an agency and instrumentality of each of the signatory states and the federal government, was formed on December 24, 1970, by the signing of the Susquehanna River Basin Compact

³ The Susquehanna River Basin Compact (32 P.S. § 820.1) and related statutory provisions (32 P.S. § 820.2 – 820.8).

⁴ 72 P.S. § 1715-F(1). Article XVII-F pertains to the 2017-2018 Budget Implementation. Further, pursuant to Section 410 (entitled Audits of interstate commissions) of The Fiscal Code, for purposes of Section 15.11 of the “Susquehanna River Basin Compact Law,” the Auditor General “shall be deemed to be a duly authorized officer on behalf of the commonwealth as a signatory party for the exclusive purpose of examining and auditing all of the books, documents, records, files and accounts and all other papers, things or property of” the SRBC. The designation shall be in addition to any other duly authorized officer of the commonwealth under the compact. *See* 72 P.S. § 410(a) and 32 P.S. § 815.101 (SRBC Compact).

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(Compact) into law.⁵ The Compact was adopted by the United States Government, the Commonwealth of Pennsylvania, and the States of New York and Maryland, in order to regulate the waters of the Susquehanna River (river) in a cooperative manner regardless of state boundaries.⁶

The following map shows the region the SRBC covers:



Source: <http://www.srbc.net/about/geninfo.htm>

The Basin drains 27,510 square miles, covering half the land area of Pennsylvania and portions of New York and Maryland. The river flows 444 miles from its headwaters at Otsego Lake near Cooperstown, New York, to Havre de Grace, Maryland, where the river meets the Chesapeake Bay.⁷

The Commissioners of the SRBC include the governor, or their appointee, from each signatory state (i.e., Pennsylvania, New York, and Maryland), and on behalf of the United States, the Commander of the United States Army Corps of Engineers North Atlantic Division. The governors also appoint alternate Commissioners to represent each of the signatory parties. The Commissioners from each of the states include officials from the states' environmental agencies. The Secretary of the Pennsylvania Department of Environmental Protection (DEP) acts as the

⁵ The SRBC was “created as a body politic and corporate . . . [and] as **an agency and instrumentality** of the governments of the respective signatory parties.” [Emphasis added]. See Compact, Article 2, Section 2.1.

⁶ <https://www.srbc.net/about/about-us/> (accessed August 16, 2018).

⁷ http://www.srbc.net/pubinfo/docs/infosheets/Susq%20River%20Basin%20Facts_Fact%20Sheet_FINAL2017.PDF (accessed June 18, 2018).

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Commonwealth's Commissioner. Two other members of DEP's management act as the first and second alternates.

The SRBC bylaws state that each Commissioner is entitled to one vote. Three of four votes are needed to pass proposed actions, unless the Compact specifically states that a unanimous vote is needed (e.g., emergency declarations). Additionally, in order to hold a meeting, a quorum of three Commissioners must be present. Meetings are held on a quarterly basis and are open to the public.⁸ The Compact states that the members of the Commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred.⁹ The daily operations of the Commission are carried out by staff at the headquarters in Harrisburg, Pennsylvania.

In addition to statutory and regulatory authority, Section 806.7 of the SRBC's project review regulations state that the SRBC may develop administrative agreements or other cooperative arrangements with agencies from the member jurisdictions. As it pertains to Pennsylvania, the SRBC entered into a project review Memorandum of Understanding (MOU) with the DEP in 1999, which is the most current agreement between the entities.

Commission Mission, Vision and Management Priority Areas

The SRBC's mission is to enhance public welfare through comprehensive planning, water supply allocation, and management of water resources of the Basin. The SRBC's vision statement states:

The Commission's vision for the Susquehanna River Basin is healthy ecosystems that provide groundwater and surface water of sufficient quality and in adequate supply to support abundant and diverse populations of aquatic, riparian, and terrestrial organisms, as well as human uses and enjoyment. Through enlightened planning for and management of the basin's water resources, the health, safety and welfare of its citizens are safeguarded during times of flooding and drought, a vibrant economy is sustained, the Chesapeake Bay's water quality and living resources are improved, and an informed public is involved in resolving water resource issues. The Commission provides the necessary leadership and coordination of efforts among its member jurisdictions and with the private sector to make this vision a reality.¹⁰

⁸ Susquehanna River Basin Commission By-Laws Revised December 8, 2017. <http://www.srbc.net/about/docs/srbc-by-laws.pdf> (accessed June 29, 2018).

⁹ SRBC Compact, Article 2 "Organization and Area", Section 2.4 entitled, "Compensation." <https://www.srbc.net/about/about-us/docs/srbc-compact.pdf> (accessed February 8, 2018).

¹⁰ *Comprehensive Plan for the Water Resources of the Susquehanna River Basin*. Susquehanna River Basin Commission. December 2013, Amended June 2017.

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As listed in the SRBC’s Comprehensive Plan, the six priority management areas of the SRBC include:

Priority Management Areas	Summary of Goals
Water Supply	Promote sustainable use of water, maintain an equitable system for allocating sustainable use of water, mitigate drought impacts, and manage diversions and consumption water use.
Water Quality	Manage the efforts to protect water quality including assess biological, chemical, and physical quality of water, organize plans and projects to improve water quality, and collect and distribute water quality data.
Flooding	Improve flood preparedness, promote protective floodplain management practices, assist in reducing the introduction of man-made debris, and implement the goals of the strategic plan for the Susquehanna Flood Forecast and Warning System.
Ecosystems	Monitor and assess ecosystem data and protect/restore biological resources.
Chesapeake Bay	Support the Chesapeake Bay (Bay) in restoring and maintaining the ecological health by implementing plans to address inflows from the Susquehanna River to the Bay.
Coordination, Cooperation and Public Information	Coordinate efforts between various public and private entities for activities related to the Commission’s mission.

Source: Developed by Auditor General staff from information on the SRBC’s website as listed in SRBC’s Comprehensive Plan, <http://www.srbc.net/about/geninfo.html> (accessed June 18, 2018).

Revenue and Expenses¹¹

The SRBC’s fiscal year runs from July 1st through June 30th. The SRBC receives revenues from signatory party contributions, project review fees, water use charges, penalties, and other revenue.¹² Other revenue is further defined as interest income, rental income, as well as federal, state, and private grants. During our audit period, the DEP, the Pennsylvania Department of Conservation and Natural Resources (DCNR), and the Pennsylvania Department of Community and Economic Development (DCED) contributed grant funding to the SRBC. Expenses include personnel services, employee benefits, special contractual services, travel and subsistence, communications, postage and freight, janitorial, utilities, rent, etc.

¹¹ As reported in the SRBC’s audited financial statements and per the Governmental Accounting Standards Board (GASB), for governmental funds, *expenditures* are recorded using modified accrual whereas proprietary funds are similar to enterprise accounting and uses accrual accounting to recognize *expenses*. However, for reporting purposes, we will refer to both expenditures and expenses as expenses.

¹² SRBC Compact, Article 15 “General Provisions”, Section 15.17 entitled “Penalty” authorizes the SRBC to seek penalties for violations. The amounts for penalties are reported in the SRBC’s audited financial statements as part of “Fines and Settlements.”

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The SRBC reports three funds in its financial statements: (1) governmental; (2) proprietary; and (3) fiduciary.¹³ The governmental fund is used to account for the SRBC’s basic services; the proprietary fund is used to account for the revenue and expenses related to water management activities and for penalties and settlements; and the fiduciary fund is used to account for activities related to the SRBC’s Post-Employment Healthcare Benefit Trust, respectively.¹⁴

The following tables reflect revenue reported in each of the three funds for the FYE June 30, 2017. Details related to certain types of revenue are described below and throughout the report. Revenue/contributions are discussed in Finding 3.

SRBC Revenue – Governmental Fund FYE June 30, 2017

Types of Revenue	Amount
Signatory Parties	
Maryland	\$346,000
New York	\$259,000
Pennsylvania	\$473,000
Total Signatory Parties	\$1,078,000
Projects and Programs	
Federal	
EPA Water Quality^{a/}	\$457,601
Swatara Creek^{b/}	\$35,000
Dirt and Gravel Roads^{c/}	\$47,952
Total Federal	\$540,553
State	
Chesapeake Bay^{d/}	\$461,074
PA Public Water Assistance Initiative^{d/}	\$88,752
Enhanced (Chesapeake) Bay Monitoring – EPA^{e/}	\$367,264
Abandoned Mine Drainage- Rausch, Sandy, Birch^{d/}	\$225,900
Remote Water Quality Monitoring Network^{f/}	\$87,158
Chiques Creek^{d/}	\$107,166
Watershed Restoration^{g/}	\$149,390
Total State	\$1,486,704
Local	

¹³ As reported in the SRBC’s financial statements, a fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives.

¹⁴ Water management activities reported in the proprietary fund include water storage rights at the Cowanesque Reservoir and Curwensville Lake. The SRBC activities regarding its Post-Employment Healthcare Benefit Trust are reported in the fiduciary fund.

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Flood Hazard Mitigation^{h/}	\$58,859
Total Local	\$58,859
Private	
Cowanisque Project^{i/}	\$8,469
Total Private	\$8,469
Total Projects and Programs	\$2,094,585
Other Revenue	
Permit Application Fees	\$1,228,910
Notice of Intent Permit Fees	\$819,670
Compliance and Monitoring Fees	\$2,307,015
Special Project Review Fees	\$279,800
Net Realized/Unrealized Loss on Investments	\$628,464
Interest and Dividend Income	\$213,501
Rental Income	\$106,062
Miscellaneous	\$21,269
Total Other Revenue	\$5,604,691
Total Governmental Fund Revenue	\$8,777,276
^{a/} - From Environmental Protection Agency (EPA)	
^{b/} - From Army Corps of Engineers	
^{c/} - From National Fish and Wildlife Foundation	
^{d/} - From DEP	
^{e/} - From DEP	
^{f/} - From DCNR	
^{g/} - From DCED	
^{h/} - A county in Pennsylvania	
^{i/} - Two utility companies	

Source: This table was compiled by the staff of the Department of the Auditor General based on revenue reported in the SRBC's audited financial statements for the FYE June 30, 2017.

Projects and Programs

The SRBC received grants and funding for some of its programs from federal, state, local, and private entities during the audit period. Programs included water quality monitoring, watershed restoration, and flood mitigation. The totals are reported by funding source type in the above table.

Other Revenue - Permit Application Fees, Notice of Intent Permit Fees, Special Project Review Fees

The SRBC assesses non-refundable fees for the review of applications for projects that require approval pursuant to the Compact and Regulations.¹⁵ The fees are assessed for both applications

¹⁵ Pursuant to the Susquehanna River Basin Commission Regulatory Program Fee Schedule effective July 1, 2016, adopted by Resolution No. 2016-04 signed June 16, 2016, agencies of the member jurisdictions to the SRBC's

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of new projects and the renewal of projects. Projects are generally approved for a period of 15 years but there is an exception for projects associated with water use on a natural gas pad, and for the associated surface water withdrawals, which is five years.¹⁶ According to SRBC management, the shorter approval period for natural gas pad projects is due to natural gas drilling being a newer industry operating in sensitive settings along the Basin. A table illustrating the fees that organizations are required to submit with the project application is reported in Appendix B.¹⁷

As listed in the table in Appendix B, the following categories of water resource projects require users to submit permit fees with the application:

- **Consumptive Water Use:** Users must obtain a general permit for consumptively using water from either surface water or groundwater, which includes underground waters, contained in the area of the Susquehanna River. In addition to the Consumptive Water Use permit fee, the SRBC requires users to obtain the following permits when directly withdrawing from either of the following sources:
 - Surface Water Withdrawals
 - Groundwater Withdrawals
- **Administrative Approval by Rule (ABR):** Users must obtain a Notice of Intent (NOI) permit for two different types of specified projects. One type covers projects using water which is not obtained through the withdrawal of surface water or groundwater but rather through a source such as a public water supplier. The second type covers projects processing or using water on a natural gas well pad.¹⁸
- **Diversions:** Users diverting water into or out of the Susquehanna River Basin (Basin) must obtain a diversion permit.

Compact with applicable member jurisdiction-wide authority and agricultural water use projects are exempt from project review fees. Pursuant to the SRBC's Compact, the project shall mean any work, service, or activity which is separately planned, financed, or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources which can be established and utilized independently or as an addition to an existing facility and can be considered as a separate entity for purposes of evaluation. The SRBC's Regulations are found in the Code of Federal Regulations at 18 CFR § 801 *et seq.*, see in particular Section 806.

¹⁶ SRBC management stated that the term for hydroelectric projects is typically 15 years or concurrent with their Federal Energy Regulatory Commission's license term, whichever is longer, which can be 40-50 years. However, in March 2017, SRBC Commissioners, by resolution, changed the term for permits for natural gas water withdrawals from 4 years to 5 years.

¹⁷ Susquehanna River Basin Commission Regulatory Program Fee Schedule effective July 1, 2016, adopted by Resolution No. 2016-04, June 16, 2016.

¹⁸ 18 CFR § 806.22(e) and (f).

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- Hydroelectric Projects: Hydroelectric power plants are one of the major types of power generating facilities in the Basin. While no water is withdrawn or consumed at these facilities, they are not without impacts to water resources, particularly ecological effects and issues related to the manipulation and modification to nature flow regimes.¹⁹

The SRBC also assesses Special Project Review permit fees for categories such as:

- Minor Modifications
- Aquatic Resource Surveys
- Pre-Drill Well Site Reviews
- Aquifer Testing Plans (ATPs)
- Emergency Certificates

Compliance and Monitoring Fee

In addition to the above reported fees that are assessed at the time applications for projects are reviewed, in 2009, the SRBC began assessing an Annual Compliance and Monitoring Fee (ACMF). According to SRBC management, this fee was implemented when natural gas drilling activity began in the area of the Basin, which resulted in an increase in monitoring responsibilities. Fees charged annually to certain projects are illustrated in a table in Appendix B.²⁰

SRBC Revenue – Proprietary Fund FYE June 30, 2017

Types of Revenue	Amount
Operating Revenue	
Water Management Fees	\$3,709,522
Operating and Maintenance Fees - Cowanesque	\$829,738
Penalties and Settlements	\$221,244
Total Operating Revenue	\$4,760,504
Non-Operating Revenue	
Realized/Unrealized Gain on Investments	\$2,040,863
Investment Earnings	\$799,656
Total Non-Operating Revenue	\$2,840,519
Total Revenue	\$7,601,023

Source: This table was compiled by the staff of the Department of the Auditor General based on revenues reported in the SRBC's audited financial statements for the FYE June 30, 2017.

¹⁹ <https://www.srbc.net/our-work/programs/planning-operations/docs/comp-plan-no-appendices.pdf> (accessed September 6, 2018).

²⁰ All projects approved by the Commission on or after January 1, 2010, including modification, renewals, transfers, and reissuances of approval, are subject to the ACMF.

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Water Management Fees (Consumptive Use Mitigation Fee) and Operating and Maintenance Fees

The SRBC assesses some docket holders a Consumptive Use Mitigation Fee of \$.33 per 1,000 gallons consumed to cover costs that are a result of the loss of water through consumptive use, which is water that is not returned back into the water system and/or lost through evaporation.²¹ A table with additional information regarding the fee charged during the FYE June 30, 2017, is included in Appendix B.

The SRBC utilizes the revenue generated from this fee to pay the costs of water storage facilities (operating and maintenance fees) and the release of water that ensures the sustainability of the Basin. The SRBC maintains an agreement with the United States Army Corps of Engineers to secure water storage and also maintains water storage in an abandoned underground mine pool. The SRBC discharges water from these sources during low flow times (e.g., droughts) to mitigate negative impacts to the Basin.

Organizations such as ski resorts, golf courses, quarries, mines, and nuclear power plants that store water in open storage (e.g., pond or pit) are required to make a pond evaporation calculation to add to its consumptive usage fee.²² A determination of whether to charge the fee is made by the SRBC during the user's application review.

Penalties and Settlements

The Compact allows the Commission to impose penalties for non-compliance by organizations that violate provisions of their agreement with the SRBC. Penalty amounts range from \$50 to \$1,000 per violation with each day counting as a separate violation. SRBC policy outlines the penalties per day of violation as illustrated in a matrix included in Appendix B.²³

In accordance with SRBC regulations, the Commission determines the penalty amount by considering whether the organization is a repeat violator, whether the violator gained any economic profit, the intent of the violator, the severity of the violation, whether the violation had an adverse environmental impact, and the cooperation of the violator, etc.²⁴ Although the Commission delegated the SRBC's Executive Director the authority to enter into settlement

²¹ The loss of water transferred through a manmade conveyance system or any integral part thereof (including such water that is purveyed through a public water supply or wastewater system), due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, injection of water or wastewater into a subsurface formation from which it would not reasonably be available for future use in the Basin, diversion from the Basin, or any other process by which the water is not returned to the waters of the Basin undiminished in quantity.

²² The evaporation calculation is based on the number of inches of evaporation established by the SRBC (based on studies performed) for each month of the year and the size of the open storage site (e.g., pond). This calculation determines the daily average pond evaporation for the open storage site which is then added to the organization's consumptive water use. This amount is then used to determine the organization's consumptive use mitigation fee.

²³ SRBC Policy No. 96-01 "SRBC Civil Penalty Matrix", dated March 14, 1996.

²⁴ Section 808.16, Civil Penalty Criteria.

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agreements when the amount is less than or equal to \$10,000, staff are required to consult with the Commissioner representing the state in which the violation occurred prior to making the offer to the violator. The settlement may then be executed with the concurrence of the host Commissioner.²⁵ Organizations offered settlement amounts greater than \$10,000 must first be approved by the Commissioners.

SRBC Revenue – Fiduciary Fund FYE June 30, 2017

Revenue	Amount
Investment Income	\$100,715
Total Revenue	\$100,715

Source: This table was compiled by the staff of the Department of the Auditor General based on income reported in the SRBC's audited financial statements for the FYE June 30, 2017.

²⁵ SRBC Resolution 2014-15, dated December 5, 2014.

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The following tables reflect expenses reported in each of the funds for the FYE June 30, 2017. The SRBC expenses are addressed in Finding 1.

SRBC Expenses – Governmental Fund FYE June 30, 2017

Expenses	Amount
Personnel Services	\$3,940,488
Employee Benefits	\$3,006,335
Special Contractual Services	\$552,577
Travel and Subsistence	\$76,586
Communications	\$91,137
Postage and Freight	\$10,550
Janitorial	\$28,027
Utilities	\$73,595
Rent	\$30,421
Printing and Reproduction	\$48,201
Repairs and Maintenance	\$156,368
Software Maintenance	\$176,922
Insurance	\$114,483
Supplies	\$229,542
Fees – Various	\$342,432
Commission Meetings	\$27,817
Dues and Memberships	\$16,730
Staff Training	\$35,658
Miscellaneous	\$33,351
Capital Outlay	\$412,005
Total Governmental Fund Expenses	\$9,403,225

Source: This table was compiled by the staff of the Department of the Auditor General based on expenses reported in the SRBC's audited financial statements for the FYE June 30, 2017.

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SRBC Expenses – Proprietary Fund (Water Management) FYE June 30, 2017

Expenses	Amount
Operating Expenses:	
Cowanesque and Curwensville – Operations and Maintenance	\$865,641
Water Storage Rights – Amortization Expense	\$1,131,435
Total Operating Expenses	\$1,997,076
Non-Operating Expenses:	
Interest Expense – Curwensville	\$65,719
Total Non-Operating Expenses	\$65,719
Total Expenses	\$2,062,795

Source: This table was compiled by the staff of the Department of the Auditor General based on expenses reported in the SRBC's audited financial statements for the FYE June 30, 2017.

SRBC Expenses – Fiduciary Fund FYE June 30, 2017

Fiduciary Fund Deductions:	Amount
Benefits	\$9,666
Administrative Expenses	\$3,682
Total Fiduciary Fund Deductions	\$13,348

Source: This table was compiled by the staff of the Department of the Auditor General based on expenses reported in the SRBC's audited financial statements for the FYE June 30, 2017.

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Finding 1 – Determination of the SRBC’s costs of salaries, benefits, other compensation; expense reimbursements to the SRBC’s officers and employees; and other fixed and variable SRBC costs; including certain questionable expenses.

The Susquehanna River Basin Compact (Compact) was signed into law on December 24, 1970. It was adopted by the Congress of the United States, and the legislatures of New York, Pennsylvania, and Maryland. The Compact provides a mechanism to guide the conservation, development, collaboration between its members, and the administration of water resources within the Susquehanna River Basin (Basin). The Compact established the Susquehanna River Basin Commission (SRBC or Commission) as the agency to coordinate the water resource efforts of the three states and the federal government.

The first three objectives of our audit were to determine:

- The cost of salaries, benefits, and other compensation provided to the officers and employees of the SRBC.
- The cost of expense reimbursements provided to the officers and employees of the SRBC.
- Other fixed and variable costs of the SRBC.

In order to determine the above costs, we reviewed the SRBC’s audited financial statements, along with certain supporting financial records and other related documentation. Although we did not perform detailed testing of the SRBC’s expenditures, our review of the SRBC’s financial records revealed certain questionable or extravagant expenditures and employee benefits. In some cases, itemized receipts were not available to determine the details of the expenses. We also noted that the SRBC does not provide access to its audited financial statements on its public website. We believe that the SRBC, as an agency and instrumentality of this Commonwealth and the federal government and other states’ signatories, should improve its transparency.²⁶

As previously noted in the Introduction and Background section, the SRBC reports three funds in its financial statements: (1) governmental; (2) proprietary; and (3) fiduciary.²⁷ The governmental fund is used to account for the SRBC’s basic services, the proprietary fund is used to account for the revenue and expenses related to water management activities and for penalties and settlements, and the fiduciary fund is used to account for activities related to the SRBC’s Post-Employment Healthcare Benefit Trust, respectively. Our determination of the SRBC’s

²⁶ The SRBC was “created as a body politic and corporate . . . [and] as **an agency** and **instrumentality** of the governments of the respective signatory parties.” [Emphasis added]. See Compact, Article 2, Section 2.1.

²⁷ As reported in the SRBC’s financial statements, a fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives.

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costs within each of the three funds, specified in our first three audit objectives, along with our related concerns, are detailed in the following sections.

Governmental Funds

Salaries, benefits and other compensation provided to the officers and employees of the SRBC

The Commissioners of the SRBC represent the three states and the federal government that adopted the Compact. In the case of the federal government, the Commissioner is the commander of the U.S. Army Corps of Engineers North Atlantic Division. For the three states, the Commissioners are the governors or their designees. The commander and governors also appoint alternate Commissioners. The Commissioners, or their alternates, generally hold quarterly Commission meetings to act on applications for projects using water, adopting regulations, and directing planning and management activities affecting the Basin's water resources. The Compact states that the members of the Commission and alternates shall serve without compensation from the Commission but may be reimbursed for necessary expenses incurred. During our review of expenses, we did not find that the SRBC paid compensation to any of the Commissioners or their alternates.

The daily operations of the SRBC are managed by executive staff with support from technical, administrative, and clerical personnel. The Compact identifies the Executive Director as an officer of the SRBC and “such additional officers, deputies, and assistants as the Commission may determine.” The SRBC identified the following four positions as officers of the Commission: Executive Director; Deputy Executive Director; Director of Administration and Finance; and the Secretary to the Commission. During the audit period, in addition to the four officers, the SRBC employed 66 individuals with a total complement of 70 personnel.

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The table below presents salaries, benefits, and other compensation provided to each of the four officers and the employees of the SRBC during the fiscal year ended (FYE) June 30, 2017:

SRBC Paid Salaries, Benefits, and Other Compensation

	Salary and Overtime	Paid Leave ^{a/}	Subtotal	Fringe Benefits ^{b/} (47.8%)	Employee Reward/Leave Other ^{c/}	Total Compensation
Officers:						
Executive Director	\$122,228	\$21,993	\$144,221	\$68,938	\$0	\$213,159
Deputy Executive Director	\$111,007	\$15,641	\$126,648	\$60,538	\$0	\$187,186
Director of Administration and Finance	\$99,442	\$16,637	\$116,079	\$55,486	\$25	\$171,590
Secretary to the Commission	\$56,038	\$9,788	\$65,826	\$31,465	\$50	\$97,341
Officers Totals	\$388,715	\$64,059	\$452,774	\$216,427	\$75	\$669,276
Employees Totals	\$3,523,649	\$597,545	\$4,121,194	\$2,125,300 ^{d/}	\$2,931	\$6,249,425
Officer and Employee Totals	\$3,912,364 ^{e/}	\$661,604 ^{f/}	\$4,573,968	\$2,341,727 ^{f/}	\$3,006 ^{f/}	\$6,918,701

^{a/} - Paid leave includes vacation, sick, holiday, etc.

^{b/} - Fringe benefits paid by SRBC include social security, workers' compensation, life and disability insurance, pension, and medical insurance.

^{c/} - SRBC has an award program in place that rewards staff with cash and leave. The program is further discussed in the following section.

^{d/} - Total amount of fringe benefits for employees also includes expenses SRBC pays in medical insurance for retirees.

^{e/} - This amount plus \$28,125 in adjusting entries for accrued salary and reversals total the amount reported in the SRBC's audited financial statements (\$3,940,489). This amount includes \$83,009 of overtime costs.

^{f/} - These three amounts total the Employee Benefits amount reported in the SRBC's audited financial statements.

Source: This table was compiled by the staff of the Department of the Auditor General based on support documents (e.g. payroll files, fringe benefit amounts) provided by the SRBC.

As identified in the above table as "Employee Reward/Leave Other," the SRBC offers its staff an awards program that is outlined in the SRBC *Administrative Manual*. There are four categories of awards: Staff Excellence; Spotlight; Executive Director Team Recognition; and Special Award of Merit.²⁸ An awards committee that consists of three individuals who volunteer to serve on the committee for a one-year term solicit staff nominations and choose the award recipient after applying the qualification guidelines for the four types of awards. According to

²⁸ According to SRBC management, all permanent Commission staff are eligible for the Staff Excellence award. All full-time, regular Commission staff are eligible for the Spotlight award. All staff and employees from other agencies or the private sector who participate as part of the team are eligible for the Executive Director Team Recognition award. Temporary or contract employees are eligible for the Special Award of Merit.

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SRBC management, the Staff Excellence and Spotlight awards are monetary in nature while the Executive Director Team Recognition and Special Award of Merit awards are gift cards. The Staff Excellence Award, the largest of the awards, includes a \$1,000 cash award, crystal trophy, and either two days of paid leave or a \$250 gift card.

The SRBC also offers a Spot Award Program that, according to management, has been offered since the FYE June 30, 2013, and included in the SRBC *Supervisor Manual*, but has not been included in the SRBC *Administrative Manual*. The program, as described by SRBC management, allows three directors and five program managers to receive a designated amount of money and leave time that they can use to recognize employees at their discretion.²⁹ Awards may be \$25, \$50, or \$100 gift certificates, or either a half or full day off work. Management further stated that all SRBC officers and employees, except for the Executive Director, are eligible for this award program.

In addition to the \$3,006 monetary rewards reported in the above table, the SRBC expended an additional \$5,025 on gift cards to be used for employee rewards that is accounted for within the Miscellaneous expense line in the financial statements. The total expense for the Miscellaneous category is included in the table in the *Other fixed and variable costs* section below. SRBC management stated that \$3,050 of the gift cards had not been awarded, or remained on hand, as of June 30, 2017.

Although SRBC management is not legally prohibited from offering ancillary awards of material value and staff may be appreciative of the reward program, we question whether the SRBC should incur such extra expenses when those funds could be better used towards covering the costs of operations directly related to the SRBC's mission.³⁰ To conduct operations, the SRBC relies primarily on funds received from signatory parties, including the Commonwealth of Pennsylvania, and fees assessed to docket holders, of which almost 97 percent are from within the Commonwealth. Therefore, the SRBC should carefully consider the amount expended towards staff awards.

Expense reimbursements provided to officers and employees

In addition to salaries paid to SRBC staff, expenses incurred by staff during the course of business are reimbursed. The SRBC's audited financial statements reported \$76,586 in travel

²⁹ The dollars allocated are calculated at \$125 multiplied by the number of employees in each of the eight director's/manager's program. The leave time is calculated at 3.75 hours multiplied by the number of employees in the director's/manager's program.

³⁰ The SRBC, as an agency and instrumentality of the Commonwealth and the other signatory parties, is not subject to the Pennsylvania Governor's Gift Ban and the Governor's Code of Conduct. However, it is important to note that the SRBC's reward program practices are in direct conflict with these Pennsylvania directives. Further, as discussed in later footnote of the finding, the individual DEP Commissioner alternates are subject to these directives. https://www.oa.pa.gov/Policies/eo/Documents/2015_01.pdf and https://www.oa.pa.gov/Policies/eo/Documents/1980_18.pdf (accessed September 4, 2018).

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and subsistence expenses, which includes transportation, parking, lodging, and food costs during our audit period. Almost \$14,000, or approximately 18 percent, was charged to SRBC credit cards issued to its officers. However, as noted in the below table, \$4,202 of the total \$13,959 were charges made by officers on behalf of an SRBC employee or for group meetings held by SRBC staff.³¹

The table below presents payments made by the SRBC for the total amount reported in the SRBC's audited financial statements as travel and subsistence for the FYE June 30, 2017:³²

SRBC Travel and Subsistence Expenses

Staff	Lodging	Food	Other	Total
SRBC Officers:				
Executive Director	\$3,625	\$808	\$998 ^{a/}	\$5,431
Deputy Executive Director	\$1,823	\$379	\$1,997 ^{b/}	\$4,199
Director of Administration and Finance	\$0	\$0	\$2,278 ^{c/}	\$2,278
Secretary to the Commission	\$107	\$20	\$1,924 ^{d/}	\$2,051
Total SRBC Officer Expenses	\$5,555	\$1,207	\$7,197	\$13,959
Total Employee Expenses				\$62,627 ^{e/}
Total Officer and Employee Expenses				\$76,586

^{a/} - Other costs includes reimbursements for mileage, gasoline, parking, and transportation (e.g. airline, train).

^{b/} - Other costs include reimbursements for mileage, gasoline, parking, transportation (e.g. taxi, airline), airline baggage fees, and conference registration fees.

^{c/} - Charges made to officer's credit card were for food and lodging on behalf of other SRBC employees and banquet room rental fees.

^{d/} - Other costs include food charges for SRBC meetings with outside organizations and for staff meetings.

^{e/} - Total costs include travel and subsistence related reimbursements to employees and for SRBC meetings, conferences, and training events. A breakdown by category was not determined during test work performed.

Source: This table was compiled by the staff of the Department of the Auditor General based on travel expense support documents (e.g. purchase requisitions, credit card statements, and receipts.)

To evaluate travel and subsistence expenses, we reviewed information noted within general ledger transactions and SRBC credit card statements to determine amounts applicable to each of the four officers. Additionally, we reviewed documents such as purchase requisitions and vendor receipts to determine what items were purchased. Our review found the charges related to lodging, food, and other expenses specific to the officers to be reasonable; however, we question other expenses charged to two of the officer's credit cards relating to catering various SRBC meetings held internally with SRBC staff and with external organizations.³³

³¹ The \$4,202 in expenses includes the \$2,278 of charges made by the Director of Administration and Finance plus the \$1,924 of charges made by the Secretary to the Commission.

³² Funds expended by the SRBC for Commission meeting related expenses are reported in a later section of the finding.

³³ Meetings were not related to the quarterly Commissioner meetings held that are attended by the Commissioners and certain SRBC staff but instead were regarding general operations of the SRBC. Expenses related to Commissioner meetings are discussed later in the finding.

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SRBC management stated that generally two all-staff meetings are held each year at which breakfast and lunch are provided for all staff attending the meetings. Our review of transactions found an \$898 lunch expense for an all staff meeting in April 2017. Our review of transactions also disclosed a \$773 lunch expense for a Public Water Supply Assistance Program (PWSAP) and DEP Water Loss Management Workshop. The SRBC initiated the PWSAP to assist small municipal systems in meeting the SRBC's regulatory requirements and to provide general outreach and education for public water supply systems. Although the meetings held may be necessary to SRBC operations, SRBC should consider whether catering lunch for the meetings is a necessary expense.

Other fixed and variable costs

Other SRBC governmental fund costs (not including personnel, benefits, and travel and subsistence) total \$2,403,164.³⁴ SRBC management provided a breakdown of all other costs between fixed and variable costs.³⁵ Management stated that the basis for identifying each cost as variable, as opposed to fixed, was a greater potential for variation from year to year. For example, costs associated with its annual audit that is required each year are considered fixed whereas lab fees for a grant are variable based upon the limited lifetime of the grant. The table below presents a breakdown of the SRBC's other expenses by fixed versus variable, as identified by SRBC management for the FYE June 30, 2017:

³⁴ This amount, less a \$23,350 audit adjustment to reclassify management fees for investments, equals \$2,379,814, the amount of other costs per the SRBC's audited financial statements.

³⁵ Generally, fixed costs remain constant regardless of activity or production volume and variable costs change will change with activity or production volume.

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SRBC Other Expenses

Expenses	Fixed	Variable	Total
Special Contractual Services	\$48,314	\$504,263	\$552,577
Communications	\$91,137	\$0	\$91,137
Postage and Freight	\$6,172	\$4,378	\$10,550
Janitorial	\$28,027	\$0	\$28,027
Utilities	\$73,595	\$0	\$73,595
Rent	\$30,421	\$0	\$30,421
Printing and Reproduction	\$48,201	\$0	\$48,201
Repairs and Maintenance	\$156,368	\$0	\$156,368
Software Maintenance	\$176,922	\$0	\$176,922
Insurance	\$114,483	\$0	\$114,483
Supplies	\$96,221	\$133,321	\$229,542
Fees-Variou s	\$90,608	\$251,824	\$342,432
Commission Meetings	\$27,817	\$0	\$27,817
Dues and Memberships	\$16,730	\$0	\$16,730
Staff Training	\$35,658	\$0	\$35,658
Miscellaneous	\$33,351	\$0	\$33,351
Capital Outlay	\$90,046	\$321,959	\$412,005
Total	\$1,164,071	\$1,215,745	\$2,379,816

Commission Meeting Expenses

As previously discussed, the Commissioners of the SRBC are comprised of representatives and alternates from each of the three states in the Compact and the federal government. Commission meetings are held quarterly at various locations throughout the Basin and are attended by Commissioners from each of the signatory parties, as well as some SRBC management staff. SRBC management stated that the meetings take place over two days, of which the SRBC pays the lodging costs for SRBC staff and the cost of meals for lunch and dinner on day one and breakfast on day two for SRBC staff and Commissioners. In addition to the quarterly meetings, other planning Commission-related meetings are held periodically. The table below presents the breakdown of expenses for the FYE June 30, 2017, by category for the three Commission meeting-related accounts:

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Category	Amount
Lodging	\$8,242
Food and gratuities	\$16,259
Alcohol	\$1,001
Other (e.g. Meeting room rental fee, Audio/Visual equipment)	\$6,197
Miscellaneous	(\$706)
Total	\$30,993 ^{a/}
^{a/} - This amount less an adjusting entry of \$3,176 for expenses attributable to fiscal year ended June 30, 2016, equals \$27,817 reported in SRBC audited financial statements.	

Source: This table was compiled by the staff of the Department of the Auditor General based on expense support documents (e.g. purchase requisitions, credit card statements, and receipts.)

We interviewed SRBC management and reviewed documents available for the Commission meeting expenses. As a result, we found certain questionable or potentially excessive expenses. As previously reported, the SRBC pays the meal expenses for SRBC staff and Commissioners that attend the quarterly Commission meetings. As reported in the above chart, during the FYE June 30, 2017, the SRBC incurred expenses of \$16,259 for food and gratuities and \$1,001 for alcohol during meetings held related to the quarterly Commission meetings.

Of the \$16,259 food and gratuities expense, the SRBC paid approximately \$12,616 for the four quarterly meetings held during the fiscal year ended June 30, 2017 (as well as a portion of the food expenses for the June 2016 meeting), and \$3,643 for meals provided for other Commission briefing meetings and work sessions. The SRBC provided itemized receipts for only \$14,072 of the \$16,259 in food expenses, which included appetizers, filet mignon, salmon, and Maryland crab cakes, along with side dishes and desserts. These expenditures appear to be extravagant for a government agency and instrumentality of each of the signatory states and the federal government.³⁶ The SRBC did not have itemized receipts to support the remaining five transactions totaling \$2,187. Based upon the information included on the support documents that were available (e.g., SRBC purchase requisitions, credit card statements, and credit card receipts), we were able to determine that the charges were from restaurants; however, without itemized receipts, we were unable to determine what food items were purchased or if any of the charges were for alcohol.

In regard to the charges of \$1,001 for alcoholic beverages, the SRBC has no policy regarding purchases for alcohol at the quarterly Commission meetings; however, its policy does prohibit reimbursement for alcoholic beverages during general travel of its staff. SRBC management stated that the cost of alcohol is covered by their rental income and investment earnings and not

³⁶ This is especially troublesome given that the Governor of one of the signatory states (Pennsylvania which contributes almost 45 percent of the total amount received from the signatory parties) has a very strict Gift Ban and Governor's Code of Conduct and the individual DEP Commissioner alternates are subject to these directives. https://www.oa.pa.gov/Policies/eo/Documents/2015_01.pdf and https://www.oa.pa.gov/Policies/eo/Documents/1980_18.pdf (accessed September 4, 2018).

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by fees or member contributions. Regardless of the source, any revenue spent on extravagant meals and alcohol are funds that could better be used to cover the cost of operations directly related to the SRBC's mission as a government agency and an instrumentality of each of the signatory parties. As previously reported, the SRBC relies primarily on funds received from signatory parties and fees assessed to docket holders. Therefore, the SRBC should carefully consider the amount it spends on food expenses for Commission meetings and not purchase alcohol with SRBC funds regardless of their source.

Staff Events/Benefits

According to SRBC management, and in some cases outlined in the SRBC *Administrative Manual*, there are additional events/benefits beyond the previously discussed award programs offered to SRBC staff that are paid for by the SRBC. The following list provides examples of the events/benefits offered:

- Service awards:
 - At 5, 10, 15, 20, 25, and 30 years of service, employee receives gift cards of \$10 for each year of service and a logo shirt.
 - In addition, at 25 years of service, employee also receives a framed watercolor print.
 - In addition, at 30 years of service, employee also receives additional gifts valued at approximately \$250.
- Wellness program – up to \$50 quarterly gym membership reimbursement.
- Public transportation – reimbursements up to \$75 per month of costs of taking public transportation (e.g., train, bus) to and from the headquarter office.
- Congratulatory gift.
- Bereavement gifts – send flowers or make a donation.
- Training and tuition reimbursement, when relevant to the employee's work at the SRBC – up to \$4,000 per year to cover tuition costs and directly related fees.
- Moving expenses – distances of 50 miles or more.
- Celebration of Administrative Professional's Day.
- Bonus for completing a certification – such as a Professional Engineer or Professional Geologist Certification.
- Summer All-Staff Picnic (no cost for employees).
- Staff Holiday Party (no cost for employees).
- Commissioners/alternates – receive parting gifts when they leave.

During our review of expenses, we noted the following examples of payments made by the SRBC during the FYE June 30, 2017, associated with the above events/benefits:

- Congratulatory gift – \$100 gift card was purchased for a wedding gift.
- Death in the family – donations totaling \$800.

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- Celebrate Administrative Professional’s Day – flowers totaling \$458 for nine staff.
- Summer All-Staff Picnic – \$1,585.
- Staff Holiday Party – \$3,074.

As previously reported, the SRBC should consider whether it is prudent to offer such events/benefits when those funds could be better utilized in funding SRBC operations.

Proprietary Fund

The SRBC proprietary fund expenses relate to the costs associated with the water storage facilities at the Cowanesque Reservoir and Curwensville Lake, which are used to release water during times of low flows in the Susquehanna River. SRBC management stated that there are no salaries or expense reimbursements paid directly through the proprietary fund. Staff who work on projects that are funded through the proprietary fund are paid through the governmental fund, which is then reimbursed from the proprietary fund. SRBC management provided a breakdown of other costs between fixed and variable costs.³⁷ Management stated that the basis for identifying each cost as fixed versus variable was the potential variation from year to year, based on specific projects that the SRBC performs and on the weather (e.g., when there are floods and droughts that require active management of the dam, costs increase). The table below presents a breakdown of the fund’s other expenses by fixed versus variable as identified by SRBC management for the FYE June 30, 2017:

Category	Water Management Fund		Total
	Fixed	Variable	
Operating Expenses:			
Cowanesque and Curwensville – Operations and Maintenance	\$0	\$865,641	\$865,641
Water Storage Rights – Amortization Expense	\$1,131,435	\$0	\$1,131,435
Total Operating Expenses	\$1,131,435	\$865,641	\$1,997,076
Non-Operating Expenses:			
Interest Expense – Curwensville	\$65,719	\$0	\$65,719

Fiduciary Fund

SRBC activities regarding its Post-Employment Healthcare Benefit Trust are reported in the fiduciary fund. This fund does not include expenses for salaries, compensation, or expense reimbursements. The SRBC reported a total of \$13,348 in deductions to its fiduciary fund. The table below presents the costs associated with the post-employment benefits for the FYE June 30, 2017:

³⁷ Generally, fixed costs remain constant regardless of activity or production volume and variable costs change will change with activity or production volume.

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Category	Total
Deductions:	
Benefits	\$9,666 ^{a/}
Administrative Expenses	\$3,682 ^{b/}
Total Deductions	\$13,348
^{a/} - Amount represents insurance premiums for retirees.	
^{b/} - Amount represents investment fees.	

Source: This table was compiled by the staff of the Department of the Auditor General based on expenses reported in the SRBC's audited financial statements for the FYE June 30, 2017.

Lack of transparency

As part of our audit, we requested that the SRBC provide us with its audited financial statements for the FYE June 30, 2017, which were not available on its website. SRBC management provided us the requested financial statements and responded that although not posted on the website, the SRBC would provide them to other organizations upon request. SRBC policy states that it will endeavor to make as much information as possible available on its website in an effort to eliminate the need for many records requests.³⁸ However, the SRBC could improve transparency and eliminate the need for such requests by making its financial statements accessible online.

Conclusion

While our first three audit objectives only required us to determine: (1) the cost of salaries, benefits, and other compensation provided to the officers and employees of the SRBC; (2) the cost of expense reimbursements provided to the officers and employees of the SRBC; and (3) other fixed and variable costs of the SRBC, in determining these costs we also used our judgment to evaluate the reasonableness of specific transactions that we reviewed and noted some questionable and excessive expenses. As a government agency and instrumentality of each of the signatory parties, the SRBC should ensure all of its expenses are necessary and reasonable to run its operations and avoid extravagant expenditures, such as alcohol, catered lunch meetings, and extra events/benefits to staff.³⁹ Also, the SRBC should be transparent with its finances, including allowing access to its audited financial statements on its public website.

³⁸ SRBC Policy No. 2009-02, "Access to Records Policy," dated September 10, 2009.

³⁹ The SRBC should also ensure that the DEP Commissioner alternates do not run into difficulties complying with their own Governor's Gift Ban and Code of Conduct.

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Recommendations for Finding 1

We recommend that the SRBC:

1. Ensure annual audited financial statements are posted to the SRBC website to allow for transparency of SRBC operations, revenue, and expenses.
2. Ensure that itemized receipts are submitted and reviewed for all transactions prior to being processed for payment.
3. Discontinue the practice of paying for alcoholic beverages at Commission meetings.
4. Re-evaluate all costs, including but not limited to, employee awards, events, donations, catered meals, etc., ensuring not only that the costs are necessary, but also that they are reasonable *and* not extravagant.

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Finding 2 – A much needed overhaul of the almost 20-year-old Memorandum of Understanding and additional written operational guidance between the SRBC and the DEP would assist in the cooperative functioning between these entities.

Prior to the signing of the Susquehanna River Basin Compact (Compact) in 1970, management of the water resources of the Susquehanna River Basin (Basin) involved several governmental agencies whose work was duplicative and uncoordinated due to a splintering of authority and responsibility. The Compact, adopted by the Congress of the United States and the legislatures of New York, Pennsylvania, and Maryland, created the Susquehanna River Basin Commission (SRBC or Commission), a regulatory intergovernmental agency with stated purposes such as promoting interstate comity and providing for the planning of the water resources of the Basin.⁴⁰ The significance of the Compact and its emphasis on this approach is underscored by the fact that the SRBC was established as a vital component of each of the signatory states and the federal government.⁴¹ One of the original major focuses of the Compact was, and continues to be, the promotion and coordination of activities and programs of federal, state, municipal, and private agencies concerned with water resources administration in the Basin.⁴²

One of the objectives of our audit of the SRBC was to determine the potential for improvement in efficiencies and overall cost reductions, including an analysis of duplication of Commonwealth efforts and the ability to share equipment, services, or personnel with Commonwealth and local agencies.

In order to properly evaluate the major components of the above objective, we reviewed the Compact, SRBC's Memorandum of Understanding (MOU) with Pennsylvania, resolutions approved by SRBC Commissioners, and conducted interviews with management from the SRBC

⁴⁰ 32 P.S. § 820.1 (Act 181 of 1968, as amended by Act 84 of 1984), Compact, Part I., "Preamble." <https://www.srbc.net/about/about-us/docs/srbc-compact.pdf> (accessed July 18, 2018). While the Pennsylvania's original legislation was enacted in 1968, the Compact was not signed until 1970. <https://www.srbc.net/about/about-us/docs/srbc-compact.pdf> (accessed August 23, 2018).

⁴¹ The SRBC was "created as a body politic and corporate . . . [and] as **an agency and instrumentality** of the governments of the respective signatory parties." [Emphasis added]. See Compact, Article 2, Section 2.1.

⁴² For example, Section 3.7 (relating to Coordination and Cooperation [by the Commission]) of the Compact provides: "The commission shall **promote and aid the coordination** of the activities and programs of Federal, state, municipal, and private agencies concerned with water resources administration in the basin." [Emphasis added]. See Compact, Article 3, Section 3.7. This is entirely consistent with our own Administrative Code relating to "Coordination of work" among departments and commissions which states, in part: "The several administrative departments, and the several independent administrative and departmental administrative boards and commissions, shall devise a practical and working basis for **cooperation and coordination** of work, eliminating, duplicating, and overlapping of functions, and shall, so far as practical cooperate with each other in the use of employees, land, buildings, quarters, facilities, and equipment." [Emphasis added]. See 71 P.S. § 181 (Adm. Code § 501).

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and the Pennsylvania Department of Environmental Protection (DEP), some of whom represent Pennsylvania as Commissioners to the SRBC.⁴³

Our review of the SRBC operations for the fiscal year ended (FYE) June 30, 2017, included the following areas, which are further discussed in the below sections:

- Outdated Memorandum of Understanding between the SRBC and the DEP
- Duplication of efforts between the SRBC and the DEP
- Sharing resources between the SRBC and the DEP
- Docket holder response on duplication of services between the SRBC and the DEP
- Communications by the SRBC

Outdated Memorandum of Understanding between the SRBC and the DEP

The SRBC's MOU with Pennsylvania, signed in June of 1999, does not adequately address gaps in the Compact, such as sharing responsibilities and the coordination of efforts between agencies, and is in need of an update. The outdated MOU between the SRBC and the DEP requires a major modernization by restructuring the MOU into the form of an "intergovernmental agreement" in order to better align the two missions of the governmental entities, as provided for in the Pennsylvania Department of General Services' (DGS) *Procurement Handbook*.⁴⁴ The intergovernmental agreement would more clearly define and memorialize the current practices in place regarding work being performed by the SRBC for and in conjunction with the DEP.

DEP and SRBC management acknowledged that the MOU is outdated and should be updated. Specifically, SRBC management indicated the topic of groundwater withdrawal permitting process needs to be updated. While the SRBC's MOU with Pennsylvania is outdated, we found that the SRBC has established regulations containing the standards and procedures used by the SRBC for the review and approval of water resource projects and related enforcement and

⁴³ The DEP oversees Pennsylvania's membership within interstate river basin organizations, including the SRBC. Additionally, the DEP is the Pennsylvania state agency which oversees departmental programs involving surface and groundwater quantity and quality planning, and soil and water conservation. The DEP coordinates policies, procedures, and regulations which influence public water supply withdrawals. The DEP is charged with ensuring the quality, sewage facilities planning, point source municipal and industrial discharges, encroachments upon waterways and wetlands, dam safety, earth disturbance activities and control of storm water, and non-point source pollution. The DEP coordinates the planning, design and construction of flood protection and stream improvement projects and is responsible for the Department's State Water Planning Program which maintains water use data and planning in support of informed decisions on water availability. Per DEP website <https://www.dep.pa.gov/Business/Water/Pages/default.aspx> (accessed August 28, 2018).

⁴⁴ This agreement applies to any agreement between an "executive agency" as defined under the Commonwealth Attorneys Act and, among others, the federal government or its agencies and any "instrumentality of the Commonwealth" seeking "a binding, contractual agreement" pursuant 71 P.S. § 732-101 *et seq.* The act defines an "Executive agency" as follows: "The Governor and the **departments** [includes DEP], boards, commissions, authorities and other officers and agencies of the Commonwealth government, but the term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, or any independent agency." [Emphasis added]. See 71 P.S. § 732-102.

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oversight activities.⁴⁵ In addition, the SRBC has approved resolutions that outline policy and provide guidance regarding topics such as the equitable apportionment of expenses, the consumptive use mitigation fee, and entering into settlements with violators for civil penalties. The SRBC has also issued policies and guidelines relating to matters such as emergency water withdrawals and emergency consumptive uses in the Basin, as well as aquifer testing. Although we commend the SRBC for maintaining various guidelines to address certain MOU criteria, the SRBC regulations and resolutions do not provide clarity to issues arising out of the outdated MOU with Pennsylvania in terms of who is to perform what services. Furthermore, they do not sufficiently address avoiding the duplication of efforts and deferring to state entities, when applicable, as inferred by the Compact and outlined in Pennsylvania Statutes.⁴⁶ Consolidating all of the criteria into one comprehensive manual would be beneficial to all users throughout the Basin.

Duplication of Efforts between the SRBC and the DEP

We inquired of SRBC and DEP management separately as to whether there are duplication of efforts between them. SRBC and DEP managements' responses were similar, stating that work between the SRBC and the DEP are complimentary and/or augmentative in nature. Therefore, DEP management generally corroborated, at a high level, SRBC management's statements and therefore, we did not perform additional procedures to validate SRBC's statements regarding duplication of efforts.

Programs/Activities

In response to our inquiry about duplication of efforts, DEP management further stated that there are many areas in which the SRBC works to advance the DEP's program goals, and the DEP utilizes SRBC programs to assist in meeting its legal requirements. However as previously noted, without an updated MOU, there is nothing in place to clearly define and memorialize the current practices that SRBC and DEP management have stated are in place regarding work being performed by the SRBC for and in conjunction with the DEP.

⁴⁵ 18 Code of Federal Regulations' (CFR) Parts 801, 806, 807, and 808.

⁴⁶ Section 3.2 (relating to Policy) of the Compact provides: "It is the policy of the signatory parties to preserve and utilize the functions, powers, and duties of the existing offices and agencies of government to the extent consistent with this compact, and the commission is directed to utilize those offices and agencies for the purposes of this compact." See Compact, Article 3, Section 3.2.

Section 3.7 (relating to Coordination and Cooperation [by the Commission]) of the Compact provides: "The commission shall **promote and aid the coordination** of the activities and programs of Federal, state, municipal, and private agencies concerned with water resources administration in the basin." [Emphasis added]. See Compact, Article 3, Section 3.7. See also, Title 32, Chapter 37 of the Pennsylvania statutes. Specifically, 32 P.S. § 820.1, Article 3 (Powers and Duties of the Commission), § 3.7 (Coordination and Cooperation).

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DEP management stated that the SRBC activities augment the following DEP programs:

- Reviewing and approving safe drinking water construction and operations permits and water allocation permits for Public Water Supplies.
- Managing water resources during times of drought.
- Evaluating potential impacts to surface and ground water during drilling or hydraulic fracturing.
- Implementing projects to address legacy mine sites and mine drainage problems often funded through federal Clean Water Act Section 319 funds, United States Bureau of Mines grants, and Pennsylvania Growing Greener grants.

During our correspondence with DEP officials, we also found that the two entities have overlapping legal authorities related to certain water withdrawals. Likewise, SRBC management also indicated that in Pennsylvania, overlap could occur in the regulation of certain withdrawals. For example, regarding groundwater withdrawals, the aquifer testing processes of the DEP and the SRBC generally align, and one aquifer test could be designed to satisfy both agencies.⁴⁷ However, testing accepted by the DEP does not necessarily meet the SRBC's requirements because the SRBC regulations are more comprehensive and specific with respect to the sustainability and quantity-driven impacts for the withdrawal. The SRBC requires more in-depth information regarding the water availability analysis, the evaluation of quantity available for development and sustainable use, pre-approval of testing, resolution of conflicts with other users (well interference), and protective conditions related to water resources (e.g., low flow protection requirements). This example supports the need for the SRBC and the DEP to have written procedures in place to ensure coordination between the agencies. In this specific case, organizations applying for water withdrawal permits should be made aware of the requirements of the SRBC and the DEP agencies to help ensure that the organizations obtain an aquifer test that will satisfy both agencies accordingly.

Water Quality

SRBC management also noted that there might be appearances of duplication. For example, a town may obtain a docket from the SRBC relating to removing water from a stream and a permit from the DEP related to the organization's operations and its effects on the water quality of the same stream. Another example is that the SRBC and the DEP may conduct the same type of monitoring, but the monitoring would cover different locations. Further, while the SRBC does not regulate water quality standards, it assists member states in managing the Basin's water quality. SRBC management further stated that under the non-regulatory arena, the SRBC performs water quality monitoring for the following two purposes:

⁴⁷According to SRBC policy No. 2007-01, "Aquifer Testing Guidance," aquifer testing results are used to help evaluate the aquifer, the local groundwater basin, and the production capability of the well, ensuring that the resources are adequate to supply the needs of the project without significant adverse impact to the water resources of the Basin.

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1. To fill gaps in areas that the SRBC identifies along the Basin that are not being monitored by the DEP in Pennsylvania. The SRBC coordinates with the DEP regarding the locations monitored in order to avoid duplication of efforts.
2. To help support federal or state government initiatives (via grants from the applicable government agencies) in situations in which the agencies do not have the resources to perform the necessary monitoring.

SRBC management stated that the Compact recognizes the primary role of the states with respect to regulating water quality and that the SRBC's activities best fall within Section 3.3 (2), Section 3.4 (4), and Section 5.1 of the Compact (related to undertaking studies and surveys), which addresses the water quality monitoring activities. Section 5.2(a) of the Compact addresses how the SRBC enhances state efforts and avoids duplication through filling monitoring gaps and encouraging data sharing to improve water quality conditions in the Basin and leaves the regulatory control to the states.

According to DEP officials, the DEP promotes SRBC water quality testing when the SRBC has “ongoing, **overlapping** projects and/or when DEP does not have the staff or capacity to **complete** testing.” [Emphasis added.] However, the SRBC and the DEP should update their MOU and clearly define what “promoting,” “overlapping,” and “complete” mean in an intergovernmental agreement.

The agreement should also recognize and address avoiding the duplication of efforts and deferring to state entities when applicable as inferred by the Compact and outlined in Pennsylvania Statutes.⁴⁸ In the area of water quality testing, the SRBC has a duty to uphold the DEP's power to control water quality testing authority in Pennsylvania. While Section 5.1 allows the SRBC to perform water quality testing, it does not extend so far as to create a universal right to do so above its obligation to defer to the DEP as inferred by the Compact and outlined in Pennsylvania Statutes. In other words, the Compact does not clearly state that the SRBC can initiate water quality testing on its own, particularly in light of its obligations under Section 3.2. This means that the “gap filling” the SRBC is currently performing should be directed and overseen by the DEP.

⁴⁸Section 3.2 (relating to Powers and Duties of the Commission of the Compact) provides: “It is the policy of the signatory parties to preserve and utilize the functions, powers, and duties of the existing offices and agencies of government to the extent consistent with this compact, and the commission is directed to utilize those offices and agencies for the purposes of this compact.” See Compact, Article 3, Section 3.2.

Section 3.7 (relating to Coordination and Cooperation [by the Commission]) of the Compact provides: “The commission shall **promote and aid the coordination** of the activities and programs of Federal, state, municipal, and private agencies concerned with water resources administration in the basin.” [Emphasis added]. See Compact, Article 3, Section 3.7. See also, Title 32, Chapter 37 of the Pennsylvania statutes. Specifically, 32 P.S. § 820.1, Article 3 (Powers and Duties of the Commission), § 3.7 (Coordination and Cooperation).

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While the DEP can delegate water quality projects to the SRBC, pursuant to Section 5.1 of the Compact, these actions should be placed into writing to include a detailed screening process for assigning all water quality projects, the coordination of resources, and controls that will be put into place to ensure that work delegated to the SRBC is meeting all applicable standards. Additionally, the MOU discussed previously in this finding should be updated to clearly differentiate between DEP and SRBC responsibilities.

Fees and Penalties

With regard to the potential duplication of fees, penalties, and permitting review, the SRBC responded that there is no duplication because the regulatory requirements of the two agencies cover different technical issues and the fees are tied to those distinct activities. Therefore, the fees are unique to each agency and not complementary in nature. SRBC management further explained that each agency individually enforces its own, distinct regulations and regulatory requirements. Under certain circumstances, the SRBC may coordinate on an enforcement matter with the DEP if both agencies have violations of their respective regulations occurring at the same facility. Additionally, SRBC staff regularly coordinate, generally at the quarterly Commission meetings, on enforcement activities with its Pennsylvania Commissioner, who is a DEP employee.

Additionally, SRBC management stated that the SRBC and the DEP coordinate closely when permits may be required for a facility for which both agencies have a regulatory oversight role (i.e., public water suppliers) and in general assist projects through referrals to the other agency. In some cases, the SRBC and the DEP hold joint pre-application meetings during which time applicants are informed how the SRBC and the DEP avoid the duplication of fees.

SRBC management further stated that in addition to holding joint pre-application meetings and communications regarding enforcement actions, the SRBC and the DEP coordinate efforts regarding processes such as technical reviews and issuing emergency certificates.

However, these processes regarding fees, penalties, and permitting reviews are not documented in writing. Any coordinated DEP and SRBC practices should be memorialized to document the distinct and shared responsibilities of each entity. Not only will this prevent potential inefficiencies among the entities, but it will also help to avoid any confusion by applicants, project sponsors, or any other interested individual.

During our audit, we surveyed seven representatives from a cross-section of Pennsylvania organizations that hold dockets with the SRBC. Both public entities and private businesses were contacted, and the results are fully discussed in Finding 3 of this report. The survey included a question pertaining to whether the organizations had any issues or concerns with the fees and penalties charged by the SRBC and the DEP that appear to be duplicative in nature. One of the representatives contacted felt that the fees are duplicative. Providing written guidance to

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organizations that outline the specific responsibilities of both the DEP and the SRBC would help to clarify questions on overlapping of authority and duplication of fees charged by each agency.

Sharing Resources

When trying to determine the potential for overall cost reductions, we inquired of both the SRBC and the DEP regarding the possibility of sharing personnel or equipment used in daily operations. SRBC and DEP management responded that sharing would not be feasible. DEP management further stated that the SRBC's programs augment its programs and that logistically it is not possible to share resources with the SRBC while still performing the same level of work. SRBC management stated that while sharing personnel or equipment would not be feasible, it does share information and results from activities such as water quality surveys. Also, as previously stated, the SRBC shares field notes and information on permitted activities when both agencies have compliance or enforcement issues with their respective rules and regulations at the same facility and invites DEP staff to participate in pre-application meetings with project applicants.

In short, the DEP indicated that it lacks sufficient resources to complete necessary work and relies on the SRBC to augment its programs and resources.

Communications with Organizations

We also found that communications with organizations should be improved to better explain the inter-relationship between the SRBC and the DEP.

According to SRBC management, the SRBC posts fact sheets and application instructions on its website and sets up information booths for a variety of public venues and conferences, including the major association and industry trade group annual meetings. The SRBC also distributes, via email, information to its regulatory community, consulting firms, and the public regarding its new policies/initiatives. Lastly, the SRBC offers to hold pre-application meetings with DEP staff and organizations to help them navigate the approval process.

However, as discussed above, the SRBC does not address the inner workings between the SRBC and the DEP in its policies or in its MOU with the DEP, which, as a result, leads to confusion over fees and duplication of services. SRBC management stated that the Commission does not maintain specific information sheets that detail the SRBC's role versus the DEP's role; rather, the SRBC more narrowly explains the differences by hosting workshops twice a year in conjunction with DEP staff and offering technical assistance to public drinking water suppliers.

Clearly articulating the role of each agency and how they interact would help eliminate confusion regarding what services the SRBC and the DEP provide and the appearance of any duplication of services, fees, and penalties.

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Recommendations for Finding 2

We recommend that the SRBC:

1. Work with the DEP to update the outdated MOU by revamping it into an “intergovernmental agreement,” as provided for in the DGS’ *Procurement Handbook*, to not only modernize the MOU but also more clearly define and memorialize the current practices in place regarding work being performed for and in conjunction with the DEP.
2. Organize all of the SRBC’s criteria including Resolutions, Policies, Guidelines, etc. into one comprehensive manual.
3. Create a detailed outline to be prominently posted on the SRBC’s website of the responsibilities and procedures being performed by both the SRBC and the DEP and regularly update the outline as these responsibilities and procedures change.
4. Improve media and communications with organizations to explain the different requirements of each agency and the inter-relationships and utilization of resources between the SRBC and the DEP, including periodically holding geographically dispersed information sessions.
5. Ensure that the SRBC defers to the DEP in all areas where the DEP performs the same functions.

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Finding 3 – Signatory parties, including Pennsylvania, are not making agreed upon contributions to the Susquehanna River Basin Commission, with the federal government making no annual payments since 2009.

The Susquehanna River Basin Commission (SRBC or Commission), established upon the signing of the Susquehanna River Basin Compact (Compact) in 1970, is primarily funded by contributions from signatory parties, fees, penalties assessed to organizations with approved docket, and funds received from federal, state, local, and private entities for specific projects.⁴⁹

Two of our audit objectives were to determine:

- Contributions to the SRBC by the Commonwealth or any person within this Commonwealth, whether via appropriations, fees, penalties or otherwise, in comparison to other signatory parties.
- The impact of the fees and penalties of the SRBC on public and private entities within the Commonwealth.

In order to achieve these objectives, we reviewed the SRBC’s audited financial statements, along with supporting financial records and other related documentation. We also attempted to contact nine organizations within the Commonwealth that, according to SRBC records, made payments to the SRBC during the audit period.

We found concerns related to the state signatory parties contributing fewer funds than what was agreed upon in accordance with a SRBC resolution, along with complete lack of federal government contributions since 2009. This lack of funding could potentially have a negative effect on Pennsylvania organizations, some of which are already reporting the negative impact from current fees imposed by the SRBC.

The following sections identify who contributes funds to the SRBC and describe concerns related specifically to the signatory parties’ contributions, as well as the impact of fees and penalties on Pennsylvania organizations.

⁴⁹ SRBC Compact, Article 15 “General Provisions”, Section 15.17 entitled “Penalty” authorizes the SRBC to seek penalties for violations. The amounts for penalties are reported in the SRBC’s audited financial statements as part of “Fines and Settlements.” The SRBC reviews organization’s projects that affect the water resources of the Susquehanna River Basin. For reporting purposes, we will refer to the approved projects as docket and the organizations whose projects have been approved as docket holders.

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Revenue/Contributions to the SRBC

The SRBC financial statements report three types of funds that support operations: governmental; proprietary; and fiduciary.⁵⁰

The tables below present revenues/additions reported by the SRBC in each of the three funds for the fiscal year ended (FYE) June 30, 2017. Detailed descriptions for certain types of revenue listed are included in the Introduction and Background section of this audit report.

SRBC Revenue – Governmental Fund

Revenue	Amount
Signatory Parties:	
Maryland	\$346,000
New York	\$259,000
Pennsylvania	\$473,000
Total Signatory Parties	\$1,078,000
Projects and Programs:	
Federal:	
EPA Water Quality ^{a/}	\$457,601
Swatara Creek ^{b/}	\$35,000
Dirt and Gravel Roads ^{c/}	\$47,952
Total Federal	\$540,553
State:	
Chesapeake Bay ^{d/}	\$461,074
PA Public Water Assistance Initiative ^{d/}	\$88,752
Enhanced (Chesapeake) Bay Monitoring – EPA ^{e/}	\$367,264
Abandoned Mine Drainage- Rausch, Sandy, Birch ^{d/}	\$225,900
Remote Water Quality Monitoring Network ^{f/}	\$87,158
Chiques Creek ^{d/}	\$107,166
Watershed Restoration ^{g/}	\$149,390
Total State	\$1,486,704
Local:	
Flood Hazard Mitigation ^{h/}	\$58,859
Total Local	\$58,859
Private:	
Cowanesque Project ^{i/}	\$8,469

⁵⁰ The governmental fund reports the revenue and expenditures from most of the SRBC’s basic services. The proprietary fund reports the operating revenues and expenses related to water management (consumptive use of water). The fiduciary fund reports the additions and deduction to the SRBC’s post-employment healthcare benefit trust.

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Total Private	\$8,469
Total Projects and Programs	\$2,094,585
Other Revenue:	
Permit Application Fees	\$1,228,910
Notice of Intent Permit Fees	\$819,670
Compliance and Monitoring Fees	\$2,307,015
Special Project Review Fees	\$279,800
Net Realized/Unrealized Loss on Investments	\$628,464
Interest and Dividend Income	\$213,501
Rental Income	\$106,062
Miscellaneous	\$21,269
Total Other Revenue	\$5,604,691
Total Governmental Fund Revenue	\$8,777,276
^{a/} - Environmental Protection Agency (EPA)	
^{b/} - Army Corps of Engineers	
^{c/} - National Fish and Wildlife Foundation	
^{d/} - Pennsylvania Department of Environmental Protection (DEP)	
^{e/} - Pennsylvania Department of Environmental Protection (DEP)	
^{f/} - Pennsylvania Department of Conservation and Natural Resources (DCNR)	
^{g/} - Pennsylvania Department of Community and Economic Development	
^{h/} - A county in Pennsylvania	
^{i/} - Two utility companies	

Source: This table was compiled by the staff of the Department of the Auditor General based on revenues reported in the SRBC's audited financial statements for the FYE June 30, 2017.

SRBC Revenue – Proprietary Fund

Revenue	Amount
Operating Revenue:	
Water Management Fees	\$3,709,522
Operating and Maintenance Fees - Cowanesque	\$829,738
Penalties and Settlements	\$221,244
Total Operating Revenue	\$4,760,504
Non-Operating Revenue:	
Realized/Unrealized Gain on Investments	\$2,040,863
Investment Earnings	\$799,656
Total Non-Operating Revenue	\$2,840,519
Total Proprietary Fund Revenue	\$7,601,023

Source: This table was compiled by the staff of the Department of the Auditor General based on revenues reported in the SRBC's audited financial statements for the FYE June 30, 2017.

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SRBC Revenue – Fiduciary Fund

Revenue	Amount
Investment Income	\$100,715
Total Fiduciary Fund	\$100,715

Source: This table was compiled by the staff of the Department of the Auditor General based on income reported in the SRBC's audited financial statements for the FYE June 30, 2017.

Signatory Party Contributions

Commissioners passed a resolution in 1996 regarding the equitable apportionment of the amount required to balance the current expense budget.⁵¹ According to the resolution, the Commission is required to annually adopt a budget for each fiscal year and the amount required to balance the budget shall be apportioned equitably among the signatory parties by unanimous vote of the Commission.⁵² Prior to the resolution, each signatory party shared equally in the expense, 25 percent each. However, according to the resolution, a changing economic and political climate within the signatory parties, as well as a need to address these changes in a sensible and realistic fashion, lead to the decision to adjust the budgetary apportionment formula. Therefore, the new formula, implemented in the adoption of the expense budget for fiscal year 1998 and in all future budget resolutions as it deems appropriate, equitably revised the apportionment of current expense budget shares as follows:

- State of New York – 12.5%
- Commonwealth of Pennsylvania – 37.5%
- State of Maryland – 25%
- United States of America – 25%

⁵¹ SRBC Resolution No. 96-08, signed October 1, 1996.

⁵² Pursuant to Section 14.3(c) of the Compact, the signatory parties agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes.

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The table below presents payments made by each signatory party for the FYE June 30, 2013, 2014, 2015, 2016, and 2017:

FYE June 30	New York Payment	%	Pennsylvania Payment	%	Maryland Payment	%	Federal Government Payment	%	Total Signatory Payments
2013	\$372,000	28.5%	\$573,000	43.9%	\$360,000	27.6%	\$0 ^{a/}	0.0%	\$1,305,000
2014	\$372,000	28.5%	\$573,000	43.9%	\$360,000	27.6%	\$0	0.0%	\$1,305,000
2015	\$259,000	21.7%	\$573,000	48.1%	\$360,000	30.2%	\$0	0.0%	\$1,192,000
2016	\$259,000	23.7%	\$473,000	43.3%	\$360,000	33.0%	\$0	0.0%	\$1,092,000
2017	\$259,000	24.0%	\$473,000	43.9%	\$346,000	32.1%	\$0	0.0%	\$1,078,000

^{a/} - Beginning with the FYE June 30, 1998, the federal government has not made annual payments to the SRBC except for one payment of \$1,000,000 paid in FYE June 30, 2009.

Source: This table was compiled by the staff of the Department of the Auditor General based on signatory party contribution history provided by the SRBC. Only the amounts for the FYE June 30, 2017, were confirmed to the SRBC's audited financial statements. The amounts for the remaining fiscal years are of undetermined reliability as noted in Appendix A. However, this data is the best data available. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our finding and conclusions.

The table below presents the actual amounts paid in FYE June 30, 2017, by each signatory party in comparison to what each party agreed to contribute based upon the equitable apportionment percentages in the resolution and SRBC's budgeted expense amount of \$2,110,000:

Signatory Party	Equitable Apportionment Amount	Signatory Payment	Amount of Underpayment
New York	\$263,750	\$259,000	\$4,750
Pennsylvania	\$791,250	\$473,000	\$318,250
Maryland	\$527,500	\$346,000	\$181,500
Federal Government	\$527,500	\$0	\$527,500
Total	\$2,110,000	\$1,078,000	\$1,032,000

Source: This table was compiled by the staff of the Department of the Auditor General based on the FYE June 30, 2017 budgeted expense amounts per SRBC resolution and the signatory payment amounts reported in the SRBC's audited financial statements.

Signatory Parties Not Paying Agreed Upon Amounts

As noted in the prior table, in FYE June 30, 2017, no signatory party paid the full amount due in accordance with the resolution. Collectively, the signatory parties underpaid the SRBC by more than \$1 million, which is approximately 50 percent of what should have been paid. Although Pennsylvania paid the most of any signatory party (\$473,000 or 43.9 percent of the total amount the SRBC received from the signatory parties), this amount is \$318,250 less than the calculated equitable apportion amount agreed to be paid by the Commonwealth per the resolution.⁵³ SRBC

⁵³ Management from the DEP, who make Pennsylvania's payments to the SRBC, explained that less was paid in 2017 than the agreed upon share amount pursuant to the SRBC Resolution No. 96-08 due to the Governor's

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management indicated that they have not received any correspondence back from the signatory states directly related to their appropriation request letters.

Lack of Federal Contributions

It is especially troubling that the federal government has not made any annual contribution payments to the SRBC since the FYE June 30, 2009. SRBC management stated that, in general, the Army Corps of Engineers has told the SRBC that the federal government has more spending authorizations than money to appropriate. In 2015, the SRBC, in coordination with the Delaware River Basin Commission and the Interstate Commission on the Potomac River Basin, sent a letter to the Assistant Secretary of the Army and to SRBC's federal Commissioner formally requesting that federal funding be restored. The response the SRBC received simply stated that its request would be considered along with those of other worthwhile programs and no commitments can be made at this time concerning future funding amounts. Furthermore, SRBC management stated that the SRBC sends a request to the federal government every year and typically does not receive a response.

SRBC management stated that to date it has not increased fees to specifically offset the reduced/lack of signatory party contributions. Historically, it has used the signatory contributions to cover municipal discounts, and in light of the current lack of funding being provided by signatory parties, the SRBC may need to consider reducing/eliminating municipal discounts.⁵⁴ This could negatively impact Pennsylvania's public authorities who have dockets with SRBC in the form of increased fees.

Additionally, while SRBC management indicated the reduced contributions have not affected fees charged to project applicants and docket holders to date, it must balance revenues with its expenses. Looking towards the future, with less funds received from the signatory parties, offsets will need to be made in some manner. This could include reducing expenses, reducing municipal discounts (as the SRBC already suggested), and/or potentially increasing fees to cover the differences. With Pennsylvania accounting for over 96 percent of the docket holders, any future increases in fees will have a negative financial impact on these Pennsylvania organizations.

Comparison of fees and penalties contributed to the SRBC by state

In addition to the contributions made by signatory parties, the SRBC collects revenue from fees and penalties that are discussed in the Introduction and Background section of the audit report. The table below represents information provided by the SRBC from its billing system regarding

proposed budget carrying forward the same allocation from the previous year's enacted budget. No additional details were provided by the DEP.

⁵⁴ According to the SRBC's Regulatory Program Fee Schedule effective July 1, 2016, public water systems owned and operated by a governmental authority, as defined in 18 CFR § 806.3, are eligible to pay the discounted fee amounts identified in the "Municipal Fee" category as listed in the fee tables in Appendix B.

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the revenue generated by state from the fees and penalties (reported in both the governmental and proprietary funds), which the SRBC collected during the period July 1, 2016 through June 30, 2017. The total amount of fees per the billing system may vary from the amounts reported in the SRBC's annual financial statements. This is due to the timing difference between amounts billed by the SRBC compared to payments received that are applicable to the audit period. For purposes of our audit, in order to determine origin by state, the data below was the best available:

Fees and Penalties	PA	MD	NY	Total
Permit Application Fees:	\$1,008,874	\$174,873	\$45,164	\$1,228,911
Notice of Intent (NOI) Fees	\$818,545	\$0	\$0	\$818,545
Special Project Review Fees	\$269,525	\$1,500	\$8,775	\$279,800
Annual Compliance Monitoring Fees	\$2,277,465	\$3,610	\$14,975	\$2,296,050
Water Management Fees	\$3,464,401	\$4,376	\$51,880	\$3,520,658
Total Fees	\$7,838,810	\$184,359	\$120,794	\$8,143,963
Percentage of Total Fees	96.25%	2.26%	1.48%	100.00%
Penalties and Settlements	\$209,744	\$0	\$11,500	\$221,244
Percentage of Penalties and Settlements	94.80%	0.00%	5.20%	100.00%

Source: This table was compiled by the staff of the Department of the Auditor General based on billing reports provided by the SRBC.

In order to evaluate the reasonableness of the percentage of fees and penalties Pennsylvania organizations paid compared to the other states, we obtained from the SRBC the number of active dockets by state held by organizations during the period July 1, 2016 through June 30, 2017.⁵⁵ We compared the percentage of active dockets held by organizations to the percentage of total fees and penalties paid within each state signatory party, the results of which are as follows:

⁵⁵ Term used by the SRBC for approved projects. Organizations may have multiple dockets.

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Active Users	PA	MD	NY	Totals
Number of Organizations	478	9	61	548
Percentage of Organizations	87.23%	1.64%	11.13%	100.00%
Number of Dockets	2,740	11	88	2,839
Percentage of Dockets	96.51%	0.39%	3.10%	100.00%
Total Fees	\$7,838,810	\$184,359	\$120,794	\$8,143,963
Percentage of Total Fees	96.25%	2.26%	1.48%	100.00%
Penalties and Settlements	\$209,744	\$0	\$11,500	\$221,244
Percentage of Penalties and Settlements	94.80%	0.00%	5.20%	100.00%

Source: This table was compiled by the staff of the Department of the Auditor General based on docket, fees and penalties information provided by the SRBC for the FYE June 30, 2017. The data regarding the number of organizations and dockets are of undetermined reliability as noted in Appendix A. However, this data is the best data available. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our finding and conclusions.

As reflected in the comparison above, docket holders within Pennsylvania account for over 96 percent of all SRBC dockets. Therefore, it appears reasonable that Pennsylvania would account for over 90 percent of both the total fees and the penalties and settlements assessed to all docket holders.

Impact of SRBC Fees and Penalties on Pennsylvania Organizations

In order to determine the impact of fees and penalties charged by the SRBC to entities within Pennsylvania, we surveyed representatives from a cross-section of Pennsylvania organizations, both public entities and private businesses, holding dockets with the SRBC. The questions we asked, along with the responses, are discussed below. The purpose of our survey was to obtain each organization's opinion regarding the fees and penalties charged by the SRBC and whether their businesses were negatively impacted by having to pay the fees and penalties. Seven of the nine organizations we contacted responded to our survey. The following paragraphs detail the results of these seven survey responses.

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Regarding fees charged by the SRBC, we asked the representative of each organization whether they felt fees were reasonable or too high. The table below represents the responses from the seven organizations as to whether they considered fees to be either reasonable or too high:

Type of Fee	Number of Organizations that Responded, "The Fee is Reasonable."	Number of Organizations that Responded, "The Fee is Too High."	Number of Organizations that Declined to Comment
Annual Compliance & Monitoring Fee	4	3	
Project Review & Application Fees	3	3	1
Consumptive Use Mitigation Fee	3	3	1

Source: This table was compiled by the staff of the Department of the Auditor General based on responses from the survey mentioned above.

As part of our work performed on the audit objective regarding duplication of services between the SRBC and the Commonwealth (addressed in Finding 2), we also inquired whether each organization had any issues or concerns with fees or penalties charged by both the SRBC and the DEP which appear to be duplicative in nature.

- Six of the representatives responded that they have no issues or concerns.
- One representative believes that the SRBC and the DEP fees are duplicative.

Additionally, we surveyed the representatives to determine whether their organizations were assessed any penalties due to a violation of the terms of their docket with the SRBC. If applicable, we then asked the representatives to describe the process of working with the SRBC and whether the organization considered a court hearing rather than accepting the settlement offered by the SRBC.

- Two organizations responded that they were not assessed any penalties.
- Five organizations paid penalties and agreed to the proposed settlement.

Finally, we asked if their organization has been negatively affected by the fees and any penalties assessed by the SRBC.

- Four representatives stated that their organizations were not negatively affected.
- Three representatives, who previously cited fees as being too high, also stated that their organizations were negatively affected by the SRBC because the fees create a financial burden.
 - One representative stated that the fees are too high and should be re-evaluated.

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- Another representative explained that the cost associated with the approval of projects and the time involved in the approval process is unreasonable and poses challenges.
- The third representative stated that the fees continue to increase, which decreases revenue that could otherwise benefit their organization.

In summary, although representatives from only three of the seven organizations (43 percent) surveyed reported that their organizations have been negatively impacted by the SRBC's fees, based on those responses, the SRBC should be cognizant of the impact of fees charged to organizations. Management should review their fee structure and carefully consider the need for any future increases in fees. Management should also be prudent when incurring expenses so that docket holders are not further negatively impacted by a need to increase fees to cover excessive costs of operation. Expenses that the SRBC incurs should only relate to those necessary for operations, as previously discussed in Finding 1.

Recommendations for Finding 3

We recommend that the SRBC:

1. Work with the signatory parties to ensure that they include in their respective budget requests the full contribution amount as determined by the agreed upon equitable apportionment percentages.
2. Emphasize to the signatory parties the need for each to contribute its equitable portion of the funds necessary for the SRBC's expense budget.
3. Consider developing a new agreement among the signatory parties that will ensure full payment of each party's contribution amount in order to address the issue of signatory parties not making their annual required payments to the SRBC.
4. Evaluate the current fee schedule to determine if the amounts assessed are required to cover the cost of necessary operations and if any changes can be made to fees to assist in alleviating the negative impact of fees on organizations.

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Susquehanna River Basin Commission's Response and Auditor's Conclusions

We provided copies of our draft audit findings and status of prior findings and related recommendations to the Susquehanna River Basin Commission (SRBC) for its review. On the pages that follow, we included the SRBC's response in its entirety. Following the SRBC's response is our auditor's conclusions.

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Audit Response from the Susquehanna River Basin Commission

The Susquehanna River Basin Commission

Response to the Commonwealth of Pennsylvania Office of the Auditor General's
Draft Performance Audit Report

September 27, 2018

The Susquehanna River Basin Commission (SRBC) appreciates the opportunity to provide a response to the performance audit findings made by Auditor General DePasquale in his September, 2018 draft audit report. We submit the following responses to the Auditor General's recommendations as outlined in the report.

Finding 1 – Determination of the SRBC's costs of salaries, benefits, other compensation; expense reimbursements to the SRBC's officers and employees; and other fixed and variable SRBC costs; including certain questionable expenses.

Recommendations:

1. Ensure annual audited financial statements are posted to the SRBC website to allow for transparency of SRBC operations, revenue and expenses.

SRBC staff agrees that transparency will be enhanced by posting the annual audited financial statements on the SRBC website, and we will do so immediately.

2. Ensure that itemized receipts are submitted and reviewed for all transactions prior to being processed for payment.

SRBC leadership agrees that itemized receipts should be required for all transactions prior to payment. Although it is already our practice to require the submittal of such receipts, your audit did identify three charges to SRBC credit cards where detailed receipts were not provided. We will reinforce the requirements of our policy to staff, and will ensure that 100% compliance is obtained in the future.

3. Discontinue the practice of paying for alcoholic beverages at Commission meetings.

The cost and volume of the alcohol served was minimal, but we understand the appearance of such purchases, despite the use of rental and investment income to cover these costs. We will discontinue the practice.

4. Re-evaluate all costs, including but not limited to, employee awards, events, donations, catered meals, etc., ensuring not only that the costs are necessary, but also that they are reasonable and not extravagant.

SRBC leadership constantly evaluates the cost of programs, benefits and related expenses, and will continue to do so with the aim of ensuring that the costs are necessary, reasonable and not

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extravagant. Where applicable, we will continue to ensure that catered meals are beneficial to the participation and success of the event and that costs are within the per diem rates established for Commonwealth of Pennsylvania employees and mimicked by SRBC.

We appreciate that the SRBC's role as a government agency and instrumentality of each of our signatory parties comes with a responsibility to be good stewards of the funds that we receive. We wish to note the many cost savings measures that we've undertaken to reduce our expenses over recent years:

- We conducted compensation surveys in 2010 and 2015 in order to benchmark our salaries against those paid by other similar government agencies. The results were used to establish comparable wages for staff to ensure their reasonableness, and to determine appropriate annual increases.
- Healthcare costs have been managed to minimize annual increases, resulting in an average increase over the last five years of less than 1% per year. We have switched healthcare providers, increased employee contributions, and raised deductibles. Our current employee contribution rate of 15% is higher than that paid by Commonwealth of Pennsylvania employees.
- In 2011, we reduced the amount of paid leave provided to employees, including the elimination of personal days and payout of accrued sick leave for retiring employees.
- We use per diem limits consistent with those used by the Commonwealth of Pennsylvania. We require receipts for every expense, and only reimburse for actual expenses up to the per diem limit.
- Successful implementation of cost savings measures have reduced our indirect cost rate from 69.15% for FYE June 30, 2009 to 39.08% for FYE June 30, 2017. This reduces the overhead charged to federal and state grant programs.

Finding 2 – A much needed overhaul of the almost 20-year-old Memorandum of Understanding and additional written operational guidance between the SRBC and the DEP would assist in the cooperative functioning between these entities.

Recommendations:

1. Work with the DEP to update the outdated MOU by revamping it into an "Intergovernmental agreement," as provided for in the DGS' Procurement Handbook, to not only modernize the MOU but also more clearly define and memorialize the current practices in place regarding work being performed for and in conjunction with the DEP.

SRBC and DEP personnel equally agree that the existing agreement should be revisited and overhauled and have already initiated discussions to that end. We appreciate your report findings, which state that you found corroboration between SRBC and DEP, and that although there may not be explicit written protocols that are up-to-date, our activities are not duplicative and that SRBC's work is complimentary/augmentative in nature. Formalizing current practices in an updated administrative agreement would be beneficial for both current and future employees and regulated parties. Additionally, we agree that we can develop better educational

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materials that help the public understand the separate and important role that SRBC fulfills in managing and protecting the water resources for Pennsylvania. Recent efforts have included improving SRBC's website, utilizing social media and starting a quarterly electronic newsletter.

SRBC staff does not agree with the finding on page 27 that steps should be taken towards DEP oversight of SRBC water quality monitoring activities. While the report correctly states that SRBC has a "duty to uphold the DEP's power to control water quality testing authority in Pennsylvania", it is important to note that the Compact also sets forth clear independent authority for SRBC to examine water quality not just in Pennsylvania, but throughout the basin. Application of this authority requires the ability to act independently. Furthermore, each of the four members of the Commission already provide oversight of our activities through approval of our annual workplan and adoption of our annual budget.

2. Organize all of the SRBC's criteria including Resolutions, Policies, Guidelines, etc. into one comprehensive manual.

Because policies, resolutions and guidance documents are subject to change and revision, often on different schedules, placing all these items into one comprehensive manual would lead to a constantly changing manual that could cause confusion among the public and regulated community. The SRBC agrees, however, that a comprehensive library could be maintained on the SRBC's website that would serve as a one-stop clearing house for all of these items. The approach of developing a comprehensive library, we believe, would achieve the same effect as the suggested comprehensive manual and we will begin compiling such a library immediately.

3. Create a detailed outline to be prominently posted on the SRBC's website of the responsibilities and procedures being performed by both the SRBC and the DEP and regularly update the outline as these responsibilities and procedures change.

The SRBC agrees with this recommendation.

4. Improve media and communications with organizations to explain the different requirements of each agency and the inter-relationships and utilization of resources between the SRBC and the DEP, including periodically holding geographically dispersed information sessions.

The SRBC agrees with this recommendation.

5. Ensure that the SRBC defers to the DEP in all areas where the DEP performs the same functions.

Overall, the SRBC and DEP perform different functions and we agree with your audit report that SRBC and DEP activities are complimentary and/or augmentative in nature, and not duplicative. However, DEP and SRBC do have overlapping authority to regulate water quantity for surface water withdrawals by public water supplies. Under the current MOU process the Commission has to date largely deferred to the Commonwealth's water allocation permits, which act as the

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SRBC approval as well. We will work to ensure this successful procedure is continued in any new administrative agreement.

Finding 3 – Signatory parties, including Pennsylvania, are not making agreed upon contributions to the Susquehanna River Basin Commission, with the federal government making no annual payment since 2009.

We appreciate your recognition that collectively our signatory parties have underpaid their fair share obligation as required by a resolution that was unanimously adopted by them in 1996. We also appreciate your recognition that, although we have thus far been able to manage costs to a point that fees charged to project applicants have not been affected, if contributions remain at reduced levels offsets may need to occur, including increasing fees and/or reducing municipal discounts, with the largest impact of the fee adjustments felt by Pennsylvania organizations.

Recommendations:

1. Work with the signatory parties to ensure that they include in their respective budget requests the full contribution amount as determined by the agreed upon equitable apportionment percentages.

The SRBC agrees that we have a responsibility to ensure equitable contributions from the signatory parties. In the future, we will strive to provide supporting information and better justification for the importance of each signatory member to request the full agreed upon contribution in its annual budget.

2. Emphasize to the signatory parties the need for each to contribute its equitable portion of the funds necessary for the SRBC's expense budget.

The SRBC agrees with this finding, and we believe that our commissioners understand the need for each of their jurisdictions to contribute their equitable portion of funds necessary to balance our budget. If signatory party contributions don't amount to the agreed upon apportionment, expenditure offsets and reductions to services need to be made in some manner. However, our commissioners are at the mercy of their respective budgetary processes and executive and legislative priorities since those processes ultimately dictate the amount of our appropriation which is included in their final approved budgets.

As the report notes, none of our signatory parties is currently paying the full amount due. The Commonwealth of Pennsylvania, which has the highest apportionment at 37.5%, historically made contributions that were close to those required. Beginning in 2010, contribution amounts, as approved by the Pennsylvania legislature, were reduced. For FYE 2017, Pennsylvania's contribution of \$473,000 was just 60% of its fair share allocation. For FYE June 30, 2018, Pennsylvania's budget included just \$273,000, or 35% of its fair share allocation. This amount will be effectively further reduced by the legislature's requirement in The Fiscal Code, as enacted by Act 44 of 2017¹, that we pay for this audit from our appropriation.

¹ 72 P.S. § 1723-F(1).

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Federal funding is required to be provided by the U.S. Army Corps of Engineers, North Atlantic Division as part of their budget appropriation. Congress has recently taken specific actions to restore federal funding when it:

- Approved the Water Resources Reform and Development Act of 2014 (WRRDA). Building on language in the Water Resources Development Act of 2007, Section 4001 of WRRDA included clear direction to the Secretary of the Army to fulfill the equitable funding obligation that was agreed to by Congress and the President.²
- Included the following report language³ accompanying the FY2016 Energy and Water Development Appropriations bill approved by the Senate Appropriations Committee: *“The Committee urges the Secretary to follow through on the direction provided by Congress in WRRDA section 4001 to find and implement the means necessary to financially support the Susquehanna, Delaware, and Potomac River Basin Commissions. Congress has made clear its intent that the [three] River Basin Commissions be supported and expects the Corps of Engineers to act appropriately.”*

Yet, despite WRRDA and urging from Congress and the Senate Appropriations Committee, none of the River Basin Commissions has received a federal appropriation.

3. Consider developing a new agreement among the signatory parties that will ensure full payment of each party’s contribution amount in order to address the issue of signatory parties not making their annual required payments to the SRBC.

We will consult with the commissioners to address this recommendation. This year, as part of our appropriation request, we will also identify specific programs and services that will need to be reduced or eliminated if full contributions are not received.

4. Evaluate the current fee schedule to determine if the amounts assessed are required to cover the cost of necessary operations and if any changes can be made to fees to assist in alleviating the negative impact of fees on organizations.

SRBC agrees with the need to frequently evaluate the appropriateness of fees. We perform an annual review of the costs associated with each of our fees, compare them to the revenue generated by each fee, and make necessary fee adjustments when appropriate. To the extent it is made possible by member contributions, SRBC has reduced fees and offered significant fee discounts to local and state government entities (a “municipal discount”). This practice likely cannot continue in Pennsylvania if we face further cuts to the Commonwealth’s annual contribution.

An example of efforts to reduce fees is demonstrated by our fiscal year 2019 fee schedule, which became effective on July 1, 2018. Review of the costs covered by our Annual Compliance and Monitoring Fee showed that cost cutting measures we implemented over the last two years had successfully reduced the expenses covered by this fee. We were therefore able to reduce the

² P.L. 87-328 (DRBC), P.L. 91-575 (SRBC), and P.L. 91-407 (ICPRB).

³ See Senate Report 114-54 (page 46) accompanying the FY 2016 Energy and Water Development Appropriations Bill.

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standard fee by between 10% and 20% depending on approval type. We also increased the municipal discount on these fees from 44% to 50%.

The SRBC has a long, documented history of revising its fees to reduce impacts where it can. Additional examples include:

- Our 2017 fee schedule decreased the Approval by Rule fee by 20% after an evaluation and implementation of program efficiencies.
- Our 2016 fee schedule reduced the cost for an aquatic resource survey by \$1,000 (nearly 20%) after a successful effort to decrease costs.
- From 2012 through the current fee schedule, we have steadily increased the municipal discount for groundwater withdrawal applications from 20% to the current level of 44%.
- In 2017 we added a 20% municipal discount for the Annual Compliance and Monitoring Fee. This has been increased and is currently 50%.
- The SRBC forewent an annual adjustment of its fees for inflation in 2017.
- In 2018, we placed a cap on the total transfer and reissuance fee paid by project sponsors transferring or reissuing multiple approvals.
- The first year of the currently ongoing two-year registration program for grandfathered water sources offered registration fee reductions of 50% to 100%.

Lastly, we appreciated your report finding that stated a majority of the organizations surveyed by your office have not been negatively impacted by SRBC fees. As noted in other portions of our response, we certainly strive to keep fees manageable for our regulated community and consider it a responsibility of ours to continually review our practices and fees.

Conclusion

In closing, we would like to thank you and your staff for the professionalism and responsiveness that was demonstrated throughout this performance audit. We appreciate the focus that was given to addressing the six objectives outlined by the Pennsylvania General Assembly for this audit, and we look forward to implementing the constructive recommendations that will assist the Commission in continuing its longstanding practice of transparency and fiscal responsibility.

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Auditor's Conclusions to the Susquehanna River Basin Commission's Response

Based on the Susquehanna River Basin Commission's (SRBC) response, the SRBC generally agrees with our three findings and specifically, 11 of our 13 recommendations. On the matters in which the SRBC disagreed or had additional comments, we offer the following conclusions:

Finding 1

We are pleased that the SRBC agrees with and is implementing recommendations regarding posting the annual audited financial statements to the SRBC's website and discontinuing the practice of paying for alcoholic beverages at Commission meetings. The SRBC also indicated that it will reinforce the policy requiring itemized receipts in light of our audit identifying three charges without itemized receipts. To clarify, our audit identified five transactions that the SRBC did not have itemized receipts. The SRBC's response further indicated that it evaluates expenses and will continue to do so in order to be a good steward of the funds it receives. We appreciate the cost savings measures included in its response but reiterate the need for the SRBC to carefully review its policies and practices of paying for items such as employee awards, events, and donations and that catered meals, if necessary, are reasonable and not extravagant.

Finding 2

We are pleased that the SRBC agrees with the recommendations to organize SRBC criteria into a central location and to outline on its website the responsibilities and procedures being performed by both the SRBC and the DEP to improve media and communications and allow for easier access to this information. However, the SRBC's response indicated that it did not agree that steps should be taken towards DEP oversight of SRBC water quality monitoring activities. The SRBC stated that the Compact sets forth clear independent authority for the SRBC to examine water quality not just in Pennsylvania, but throughout the Basin and that application of this authority requires the ability to act independently. Although the Compact allows the SRBC a great deal of latitude in exercising its authority, we believe it is an overstatement that the SRBC is independent beyond the authority of the agencies of the signatory parties. The Compact does not clearly state that the SRBC can initiate water quality testing on its own, particularly in light of its obligations under Section 3.2 relating to Powers and Duties of the Commission of the Compact, meaning that the "gap filling" monitoring the SRBC is performing should be directed and overseen by the Pennsylvania Department of Environmental Protection (DEP). The SRBC's position that they maintain independent authority to examine water quality in the interest of all signatory parties would limit, or at least undermine, the DEP's authority to enact, monitor, assign, and/or enforce its own water quality regulations. This is a matter of policy, but the various provisions of the Compact, identified in greater detail in Finding 2 of this report, do not clearly state that the SRBC can initiate water quality testing on its own volition. In fact, the Compact establishes a duty to defer to signatory states and do not, in and of themselves, establish

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carte blanche authority by the SRBC to perform water quality testing to the extent it would conflict with other provisions of the Compact. Therefore, we believe the SRBC is not entitled to operate independently in regard to water quality and that the Compact mandates that the SRBC defers to the DEP.

The SRBC response restated that there is overlapping authority between the SRBC and the DEP regarding regulating water quantity for surface water withdrawals by public water supplies. We would like to emphasize the importance of working with the DEP to update their outdated Memorandum of Understanding (MOU) to memorialize, in writing, the process of deferring to the DEP's water allocation permits to avoid uncertainty and confusion among the parties and to avoid any potential duplication of efforts between the SRBC and the DEP this uncertainty could cause.

Finding 3

We appreciate the SRBC's agreement for the need to work with the signatory parties regarding each paying its full agreed upon contribution amount and for the SRBC to evaluate the appropriateness of fees it charges for regulatory program fees. The SRBC response indicated that it has reduced fees and provided specific examples. Due to the scope of our audit being limited to only one fiscal year, July 1, 2016 through June 30, 2017, we did not complete a comparison of the fees in place during our audit period to any prior years or to any subsequent changes. Therefore, we cannot confirm the information regarding the reduction of fees that the SRBC provided in response to recommendation 4.

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Appendix A

Objectives, Scope, and Methodology

The Department of the Auditor General conducted this performance audit under the authority of Article XVII-F, Subarticle B of The Fiscal Code as enacted by Act 44 of 2017.⁵⁶ Specifically, Section 1715-F(2) of The Fiscal Code provides that, “[t]he Auditor General shall audit the Susquehanna River Basin Commission” during the fiscal year ended (FYE) June 30, 2018.

This audit was limited to the objectives identified below and was not required to be and was not conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. We planned and performed this audit to obtain sufficient, appropriate evidence to the extent necessary to satisfy the above audit objectives. We believe that the evidence obtained provides a reasonable basis to support our results, findings, and conclusions.

Objectives

The Fiscal Code outlined our Susquehanna River Basin Commission (SRBC) performance audit objectives as follows:

- The cost of salaries, benefits, and other compensation provided to the officers and employees of the SRBC. [See Finding 1]
- The cost of expense reimbursements provided to the officers and employees of the SRBC. [See Finding 1]
- Other fixed and variable costs of the SRBC. [See Finding 1]
- The potential for improved efficiencies and overall cost reductions, including an analysis of duplication of commonwealth efforts and the ability to share equipment, services or personnel with commonwealth and local agencies. [See Finding 2]
- Contributions to the SRBC by the commonwealth or any person within this commonwealth, whether via appropriations, fees, penalties or otherwise, in comparison to other signatory parties. [See Finding 3]

⁵⁶ 72 P.S. § 1715-F (1). Article XVII-F pertains to the 2017-2018 Budget Implementation. Further, pursuant to Section 410 (entitled Audits of interstate commissions) of The Fiscal Code, for purposes of Section 15.11 of the “Susquehanna River Basin Compact Law”, the Auditor General “shall be deemed to be a duly authorized officer on behalf of the commonwealth as a signatory party for the exclusive purpose of examining and auditing all of the books, documents, records, files and accounts and all other papers, things or property of” the SRBC. The designation shall be in addition to any other duly authorized officer of the commonwealth under the Compact. See 72 P.S. § 410(a) and 32 P.S. § 815.101 (SRBC Compact).

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- The impact of the fees and penalties of the SRBC on public and private entities within the commonwealth. [See Finding 3]

Scope

This audit was for the period of July 1, 2016 through June 30, 2017.

Methodology

All of the items selected for testing in the audit were based on our professional judgement. Consequently, the results of our testing cannot be projected to, and are not representative of, the corresponding populations.

To address our audit objectives, we performed the following procedures:

- Interviewed and corresponded with SRBC management responsible for overseeing the SRBC in order to gain an understanding of the SRBC's operations, revenues, and expenses; and to determine the potential for improved efficiencies and overall cost reductions, including an analysis of duplication of Commonwealth efforts and the ability to share equipment, services or personnel with Commonwealth and local agencies.
- Interviewed and corresponded with Pennsylvania Department of Environmental Protection (DEP) management regarding our audit objective to determine the potential for improved efficiencies and overall cost reductions, including an analysis of duplication of Commonwealth efforts and the ability to share equipment, services or personnel with Commonwealth.
- Reviewed the Memorandum of Understanding between the SRBC and Pennsylvania (one of the SRBC signatory states, which also includes New York and Maryland), the SRBC Compact, the SRBC *Administrative Manual*, the SRBC *Supervisor Manual*, SRBC Resolutions, the Pennsylvania Department of General Services' *Procurement Handbook*, Commonwealth of Pennsylvania Governor's Office Executive Order 2015-01 related to the Governor's Gift Ban and Governor's Code of Conduct, and other applicable state laws and regulations to determine legislative and regulatory requirements related to the audit objectives.
- Obtained from SRBC management a schedule of payments made by each signatory party in order to determine the amount of payments made to the SRBC by each signatory party during the FYE June 30, 2013 through June 30, 2017.
- Reviewed correspondence from the SRBC to the federal government requesting full payment of agreed upon annual contribution amounts.

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- Reviewed the SRBC’s audited financial statements for the FYE June 30, 2017, and determined the amount of revenue and expenses reported in the SRBC’s governmental, proprietary, and fiduciary funds. The SRBC’s financial statements received an unmodified audit opinion indicating that they present fairly the financial position of the SRBC.
- Obtained a data file of all general ledger transactions for revenue and expenses reported in the SRBC’s audited financial statements for the governmental, proprietary, and fiduciary funds for the FYE June 30, 2017, and determined the total amount of the following:
 - Revenue from signatory parties, fees, penalties, and water sales.
 - Expenses paid for salaries, overtime, benefits, employee rewards, and travel expense reimbursements to the SRBC staff and officers.
 - Commission meetings and other SRBC costs.
- Obtained from SRBC management the fringe benefit rates for SRBC staff in order to calculate the amount of fringe benefits paid to SRBC officers and employees.
- Reviewed information within the SRBC’s general ledger and obtained support documents (e.g. credit card statements, purchase requisitions, and vendor receipts) for the \$13,959 travel expenses reimbursed to SRBC officers during the FYE June 30, 2017, to determine the amounts spent on lodging, food, and other items; whether alcohol was purchased; and for the reasonableness of the amounts expended.
- Obtained credit card statements and additional support documents (e.g. purchase requisitions and vendor receipts) for the purchases made for the \$30,993 in Commission meeting expenses to determine the amounts spent on lodging, food, and other items; whether alcohol was purchased; and for the reasonableness of amounts expended.
- Followed-up with SRBC management regarding the \$1,001 of alcoholic beverage charges to determine the SRBC’s policy relating to purchases of alcohol at Commission meetings and during general travel as well as additional events/benefits beyond the award programs outlined in the SRBC’s *Administrative Manual and the Supervisor Manual* offered to SRBC staff paid by the SRBC such as congratulatory gifts, summer picnics, and holiday parties.
- Obtained from SRBC management a breakdown of fixed versus variable costs for the expenses reported in the SRBC’s governmental, proprietary, and fiduciary funds not related to salaries, benefits, and expense reimbursements of the SRBC for the FYE June 30, 2017.

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- Obtained data of all organizations, by signatory state, holding dockets with the SRBC during the FYE June 30, 2017, to determine the number of organizations and the number of dockets each organization held in order to make a comparison by signatory state.
- Obtained data files for all fees and penalties collected by the SRBC to docket holders during the FYE June 30, 2017, in order to determine the total amount of fees and penalties collected from each signatory party state.
- We contacted nine representatives from a cross-section of the 478 Pennsylvania organizations, including both public entities and private businesses, holding dockets with the SRBC and that were charged a variety of the fees and penalties in order to conduct a survey to determine the impact fees and penalties charged by the SRBC had on the organizations. We received responses from seven of nine representatives contacted.

Data Reliability

In performing this audit, we obtained data files from the SRBC's Administration and Finance management, which included general ledger revenue and expense transactions, payroll transactions, fees and penalty transactions, and a list of organizations that are docket holders that were charged fees and penalties by the SRBC. We also obtained a schedule of payments made to the SRBC by each signatory party for the FYE June 30, 2013 through the FYE June 30, 2017.

To assess the completeness and accuracy of the general ledger transactions, payroll transactions, and fees and penalty transaction data, we confirmed that the amounts reported as revenue and expenses for the FYE June 30, 2017, agreed to the amounts reported in the SRBC's annual audited financial statements. Based on that procedure, we found no limitations with using the data for our intended purposes. Therefore, we concluded the data to be sufficiently reliable regarding completeness and accuracy for the purposes of our audit.

To assess the completeness and accuracy of the payments made to the SRBC by each signatory party for the FYE June 30, 2017, we confirmed the amounts agreed to the amounts reported in the SRBC's audited financial statements. Based on that procedure, we found no limitations with using the data for our intended purposes. Therefore, we concluded the data to be sufficiently reliable regarding completeness and accuracy for the purposes of our audit.

We did not perform procedures to validate the completeness and accuracy of the payments made to the SRBC by each signatory party for the FYE June 30, 2013 through the FYE June 30, 2016; however, the schedule of payments is the best information available. As such, we deemed this information to be of undetermined reliability. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

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We did not perform procedures to validate the completeness and accuracy of the listing of docket holders within each signatory party state; however, this is the best data available. As such, we deemed this information to be of undetermined reliability. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

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Appendix B

Susquehanna River Basin Commission Fees and Penalties Schedules

The tables included in this appendix were provided by Susquehanna River Basin Commission (SRBC) management and illustrate the fees in effect during our audit period that organizations were required to submit for project applications (see Table 1. Project Review and Modification Fees), annual compliance and monitoring fees (see Table 2. Annual Compliance and Monitoring Fee), and consumptive water use (see Table 3. Consumptive Use Mitigation Fee). The source of these tables is the SRBC's *Regulatory Program Fee Schedule* adopted by Resolution No. 2016-04. Additionally, this appendix includes a table outlining the potential penalties per day for non-compliance by organizations, as the SRBC's Policy No. 96-01, *Civil Penalty Matrix*.

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TABLE 1. PROJECT REVIEW AND MODIFICATION FEES

Project Category	Requested Quantities/Capacities ¹	Standard Fee	Municipal Fee
Consumptive Water Use	20,000 gallons per day (gpd) – 99,999 gpd 100,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd 1 million gpd (mgd) – 5 mgd Over 5 mgd	\$ 3,050 6,125 12,150 36,350 60,625	\$ 2,440 4,900 9,720 29,080 48,500
Approval by Rule Consumptive Use; 18 CFR § 806.22(e)	20,000 gpd – 99,999 gpd 100,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd Over 999,999 gpd	\$ 1,550 3,075 8,075 see footnote ²	\$ 1,240 2,460 6,460 see footnote ²
Approval by Rule ³ Consumptive Use; 18 CFR § 806.22(f)	<u>Unconventional Natural Gas or Other Hydrocarbon Development:</u> New Application Renewal Application <u>Water Source:</u> Source Registration; Subsection (12) Source Approval; Subsection (13) Hydrocarbon Water Storage Facilities; Subsection (14)	\$ 8,075 2,075 530 1,125 2,575	Not Applicable
Surface Water Withdrawals ^{4,5}	Less than 100,000 gpd 100,000 gpd – 249,999 gpd 250,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd 1 mgd – 5 mgd 5,000,001 gpd – 10 mgd Over 10 mgd	\$ 5,300 7,950 10,600 13,250 15,875 34,500 34,500 + \$5,875 for each additional 1 mgd increment ^{6,7}	\$ 4,240 6,360 8,480 10,600 12,700 27,600 27,600 + \$4,700 for each additional 1 mgd increment ^{6,7}
Groundwater Withdrawals ^{4,5}	Less than 100,000 gpd 100,000 gpd – 199,999 gpd 200,000 gpd – 499,999 gpd 500,000 gpd – 999,999 gpd 1 mgd – 5 mgd 5,000,001 gpd – 10 mgd Over 10 mgd	\$ 8,225 12,375 16,550 20,675 24,775 53,785 53,785 + \$9,450 for each additional 1 mgd increment ^{6,7}	\$ 4,622 6,953 9,264 11,586 13,886 30,157 30,157 + \$5,296 for each additional 1 mgd increment ^{6,7}
<u>Diversions:</u> Into Basin Out of Basin	All quantities Less than 250,000 gpd 250,000 gpd or greater	\$ 10,125 10,125 30,350 + consumptive use fee (unless not applicable)	\$ 8,100 8,100 24,280 + consumptive use fee (unless not applicable)
Hydroelectric Projects (New or Re-licensing)	Greater than 10 megawatts (anything less subject to “all other projects” category below)	\$ 236,325 ⁸	Not Applicable

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TABLE 1. PROJECT REVIEW AND MODIFICATION FEES (continued)

Project Category	Requested Quantities/Capacities ¹	Standard Fee	Municipal Fee
All other projects requiring review and approval and not otherwise specified	All quantities or capacities	\$ 5,050	\$ 4,040
Minor Modifications		\$ 750	\$ 600
Aquatic Resource Survey ^{5,9}		\$ 5,875	\$ 4,700
Pre-Drill Well Site Review ¹⁰		\$ 2,275	\$ 1,820
Aquifer Testing Plan ^{4,11}		\$ 5,125	\$ 3,832
Aquifer Testing Plan Waiver Request Evaluation ^{4,11}		\$ 5,125	\$ 3,832
Emergency Certificate		\$ 5,050	\$ 4,040
Transfer of Approval ¹²		\$ 1,050	\$ 840
Reissuance of Approval ¹²		\$ 525	\$ 420

¹ Fees for new and renewal applications are based on the maximum withdrawal amount (on a peak day or 30-day average basis, as appropriate) requested in the application. Fees for modifications of approved projects, other than minor modifications as defined in 18 CFR § 806.18, are based on the increase in the requested quantity/capacity. When a modification other than a minor modification is requested that does not include an increase in quantities, the lowest fee for the applicable project category shall apply.

² Projects under 18 CFR § 806.22(e) which will require consumptive use of more than 999,999 gpd should consult with Commission staff prior to submitting an application. Fees for these projects will be subject to Paragraph 11 of this fee schedule, but in no case will pay less than \$8,075 (\$6,460 for municipal projects).

³ Except where the project sponsor has an approved docket, any water source serving an Approval by Rule must be either registered or administratively approved, regardless of quantity.

⁴ A separate fee is required for each withdrawal location, except for groundwater remediation systems that may be eligible for a single fee.

⁵ An Aquatic Resource Survey fee may be required for applications for surface water and groundwater withdrawals, or for modifications or renewals of approved withdrawals (see footnote 9).

⁶ 1 mgd increment includes any amount from 1 gallon to the next mgd.

⁷ The maximum calculation of a project fee for this category will be \$282,675.

⁸ Fees for these projects will be subject to Paragraph 11 of this fee schedule. Additional fees will be assessed when actual costs exceed the fee. A refund will be issued when actual costs are less than the fee.

⁹ Aquatic resource surveys will be conducted on streams when recent relevant data are not available to evaluate the potential impacts of a withdrawal. Commission staff will make that determination during the review of an application and will invoice this fee separately.

¹⁰ Project sponsors may request a pre-drilling evaluation for proposed groundwater withdrawals. Fifty percent (50%) of the fee paid for a pre-drilling evaluation will be applied towards the Aquifer Testing Plan fee for a well that was completed at the same borehole location identified in and evaluated with the pre-drilling well site review.

¹¹ If a waiver for an aquifer testing plan is requested and denied, the project sponsor will be required to develop an aquifer testing plan and pay an additional fee.

¹² The fee for transfers or reissuances as defined under Commission regulation found in 18 CFR § 806.6 which occur simultaneously as part of a single transaction will be reduced by 50 percent when the number of transfers or reissuances in the transaction equals 25 or more.

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TABLE 2. ANNUAL COMPLIANCE AND MONITORING FEE^{1,2}

Facility Category	Standard Fee	Municipal Fee
Hydroelectric	\$10,325	\$ 8,260
Withdrawal, Consumptive Use, Diversion	\$ 1,050	\$ 840
Approval by Rule/General Permit Notice of Intent	\$ 1,050	\$ 840

¹ Annual Compliance and Monitoring fees apply to each facility approved by the Commission on or after January 1, 2010, including modifications, renewals, transfers and reissuances of approvals that require Commission or Executive Director action on or after that date. Commission orders, including consent order and agreements, may include the Annual Compliance and Monitoring fee where the order requires ongoing metering and reporting to the Commission or requires applications to be made to the Commission.

² All fees on this table will be invoiced by the Commission on or after July 1 of each year. During the first year, fees will be prorated by quarter on the basis of a fiscal year commencing July 1. Fees are due and payable within 30 days from the date of invoice. Facilities which submit rescission requests on or after July 1 of each year will owe the entire annual fee.

TABLE 3. CONSUMPTIVE USE MITIGATION FEE

Project Category	Standard Fee
Consumptive Use Mitigation Fee ¹	\$0.33 per 1,000 gallons consumed

¹ Consumptive Use Mitigation fees are paid by project sponsors electing to use such payments as their method of compliance with 18 CFR § 806.22(b). Such fees are deposited in the Commission's Water Management Fund and shall be used for planning, engineering, design, and construction phases of new projects, or the reformulation of existing reservoirs, or any other project or study initiated by the Commission to address the cumulative impact of consumptive water use or otherwise to support low flow management in the Susquehanna River Basin, as provided for in the Commission's Water Management Fund Policy, originally adopted as Commission Policy No. 95-02, June 8, 2005, and amended by Commission Resolution No. 2008-05, September 11, 2008.

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SRBC CIVIL PENALTY MATRIX Penalties Per Day of Violation*

	Minor: \$50-\$250	Moderate: \$251-\$750	Severe: \$751-\$1,000
Previous Violations	No previous violations	One previous violation	Multiple previous violations
Intent	Non-willful, non negligent	Non-willful, negligent	Willful
Adverse Environmental Impacts	No adverse environmental impacts	Limited adverse environmental impacts	Major adverse environmental impacts
Cooperation	Excellent cooperation/quick response	General cooperation & some delay in compliance	Little or no cooperation/slow response
Economic Benefit	No economic benefit	Minor economic benefit	Substantial economic benefit

- * §15.17 of the Compact specifies that "... in the event of a continuing offense, each day of such violation, attempt, or conspiracy shall constitute a separate offense." In most cases, violations discovered by staff have continued for a substantial number of days, thus forcing the Commission to impose relatively high penalties in most cases, even where the violation resulted in virtually no other harm. Thus, in practice the Commission would most likely and most often offer a violator a settlement by agreement in lieu of penalty as we are authorized to do under §805.27 of our project review regulations. This would avoid the imposition of an unrealistically high penalty. Nevertheless, the above matrix can serve as a guide when we are faced with a case where the imposition of a penalty is appropriate.

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Appendix C

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