

DELAWARE COUNTY REGIONAL
WATER QUALITY CONTROL AUTHORITY
100 EAST FIFTH STREET
CHESTER, PENNSYLVANIA 19013

MINUTES

NOVEMBER 21, 2023 (ON-SITE / VIRTUAL OPTION)

The Regular Meeting of the Delaware County Regional Water Quality Control Authority was held on Tuesday, November 21, 2023, at 3:30 P.M. The meeting was held in the Board Room of the Administration Building at 100 East Fifth Street, Chester, Pennsylvania and virtually via Zoom.com. REGULAR MEETING

Messrs. Kern, Knapp, Monaghan, Moss, Mullen, Nagle, and Mesdames Billings, Nichols, and Sage, Board Members, constituting a quorum were present. ROLL CALL

Messrs. Cartafalsa, Cherico, DiSantis, S. Garner, Hurst, Lehman, Lenton, Rice, Willert, and Mesdames Amadio, Bonnett, Fitzgerald, B. Garner, and Jackson were also present.

PUBLIC ATTENDANCE: No members of the public were present. PUBLIC

Mr. Kern, Chairman, called the meeting to Order.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was recited by all parties present. PLEDGE OF ALLEGIANCE

ORDER OF BUSINESS

COMMENTS FROM THE PUBLIC: Mr. Kern stated that there were no comments or questions received from the public. PUBLIC COMMENT

APPROVAL OF MINUTES: It was moved by Mr. Knapp, seconded by Mr. Monaghan, and unanimously carried that the minutes of the Regular Meeting of October 17, 2023, be approved as submitted. APPROVAL OF MINUTES

REPORTS: REPORTS

1. COMMITTEES: COMMITTEES

a. Human Resources and Administration. Ms. Nichols stated that the Committee met on November 13, 2023. There were no additions to the meeting minutes. Human Resources and Administration

b. Strategic Planning and Goals. Mr. Nagle reported that the Committee met on November 13, 2023. He noted two items requiring Board action would be considered later in the agenda. There were no additions to the meeting minutes. Strategic Planning & Goals

- c. Operations and Engineering. Mr. Mullen stated that the Committee met on November 14, 2023. He noted items requiring Board action would be considered later in the agenda. There were no additions to the meeting minutes. Operations and Engineering
- d. Finance. Mr. Knapp stated that the Committee met on November 15, 2023. He noted two items requiring Board action would be considered later in the agenda. There were no additions to the meeting minutes. Finance
- e. Pension. Mr. Monaghan stated that there was no formal meeting of the Pension Committee and had nothing to report at this time. Pension
- f. Legal Liaison. Ms. Billings stated that the committee did not meet but a Legal Update Memorandum was provided to those present at the Workshop meeting on November 13th. She requested that the Legal Update Memorandum be attached to these meeting minutes. Attached as Exhibit A. Legal Liaison
2. CHAIRMAN: Mr. Kern announced that he was establishing an Ad Hoc Committee on Executive Compensation. To date, that committee consists of Mr. Kern and Mr. Mullen with an invitation for two other Board members to participate. A report will be presented to the Board in Executive Session at the December Human Resources and Administration Committee meeting. Mr. Kern asked Ms. Billings to report on the presentation of DELCORA's cancer donation made yesterday in Swarthmore at the Headstrong Foundation. Ms. Billings stated that DELCORA had put together a fundraiser for cancer. It was included as part of our Community Day. DELCORA presented a check to an organization called the Headstrong Foundation that is headquartered in Ridley but has a house in Swarthmore that provides a place for cancer patients. A tour of the house was provided. Ms. Billings noted that when she was the Swarthmore Borough Manager, this project met with some local opposition at the time it was initially proposed but it was eventually approved. She also stated that several DELCORA employees attended the event and was proud to present the donation on behalf of DELCORA. CHAIRMAN
3. EXECUTIVE DIRECTOR: Mr. Willert stated that there were no additions to the written report. EXECUTIVE DIRECTOR
4. DIRECTOR OF ENGINEERING: Mr. Hurst stated that there were no additions to the written report. DIRECTOR OF ENGINEERING
5. DIRECTOR OF OPERATIONS & MAINTENANCE: Mr. DiSantis stated that there were no additions to the written report. DIRECTOR OF OPERATIONS & MAINTENANCE
6. SOLICITOR: Mr. Rice stated that there are no new updates since the Legal Update Memorandum was presented at the Workshop meeting on November 13, 2023. (See Exhibit A) SOLICITOR

OPERATING FUND PAYMENTS:

OPERATING
FUND PAYMENTS

1. CHIEF FINANCIAL OFFICER REPORT: Mr. Cherico stated that there were no additions to the written report.

CHIEF FINANCIAL
OFFICER

2. PAYMENT OF BILLS:

PAYMENT OF
BILLS

Approval of Operating Statement, Statement of Fund Balances and List of Bills for the month of October 2023.

It was moved by Mr. Knapp, seconded by Ms. Sage, and unanimously carried that the statement and the list of bills in the amount of \$4,597,650.94 for the month of October 2023 contained in the Chief Financial Officer report be approved.

CONSTRUCTION FUND PAYMENTS:

CONSTRUCTION
FUND PAYMENTS

1. ENGINEERING ADVISOR'S REPORT: Mr. Lehman stated there were no additions to the written report.

ENGINEERING
ADVISOR

2. CHANGE ORDERS:

CHANGE ORDERS

• Contract No. TC-2303-C – B-3 UPS Install – Change Order No. 1 – Increase In Contract Amount Due To The Addition Of Transformer Created A Need For More Equipment And A Change In The Size Of The Staging Area And Platform – Increase In The Amount Of \$573,593.00 (S. J. Thomas) (Capital Funds). Mr. Kern stated that this contract change order was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval. Mr. Hurst noted that there will also be a Civil component to this project which will be explained in another change order next month. This one is for the Electrical component.

Contract No.
TC-2303-C
B-3 UPS Install
CO #1

It was moved by Mr. Nagle, seconded by Mr. Moss, and unanimously carried to approve this contract change order.

3. CONTRACT CLOSEOUT AND FINAL PAYMENT APPROVAL: Mr. Kern stated that there were no Contract Close-Outs at this time.

CONTRACT
CLOSEOUT

4. PAYMENT OF BILLS:

PAYMENT OF
BILLS

It was moved by Mr. Knapp, seconded by Ms. Sage, and unanimously carried as follows: (a) that the bills of contractors, engineers and others for construction costs, engineering services and related costs under the Renewal & Replacement Fund in the amount of \$1,542,491.29 are hereby approved; and (b) the requisitions on the Renewal & Replacement Fund under the Trust Indenture with TD Bank, in payment of said bills, are hereby approved pending approval by the Treasurer, and the proper officers be and are hereby authorized and directed to execute same.

AUTHORIZATION TO ADVERTISE CONTRACTS: Mr. Kern stated that there were no Authorizations to Advertise Contracts at this time.

AUTHORIZATION
TO ADVERTISE
CONTRACTS

AWARD OF CONTRACTS:

AWARD OF
CONTRACTS

• Contract No. P2023-07 – Dispensing Of Unleaded Gasoline And Diesel Fuel With Tracking System. Mr. Kern stated that one bid was received from PHL Gas Convenience. Upon Solicitor review, it was determined that:

Contract No.
P2023-07
Dispensing of
Unleaded Gas &
Diesel Fuel

1. PHL Gas failed to include the required financial statement with its Bid Bond and failed to include one with its Agreement of Surety from the same signory. This is a minor omission that could be corrected after the fact or waived.

2. PHL Gas is a PA corporation. Bids by corporations need to be executed in the corporate name by the president or vice president. This bid was signed by Jagraj Singh but no title for Mr. Singh was included. This omission as minor and correctable.

The PHL Gas bid is generally acceptable and it can be awarded this contract if the Board so chooses to do so. The Solicitor recommends confirming Mr. Singh's title to ensure he has the capacity to bind PHL Gas under this bid and contract.

It was moved by Ms. Nichols, seconded by Mr. Mullen, and unanimously carried to award Contract No. P2023-07 to PHL Gas Convenience in the amount of \$84,633.00 for Item 1 and in the amount of \$36,450.00 for Item 2, for a total amount of \$121,083.00, pending confirmation of Mr. Singh's title as an authorized signatory to execute the contract agreement and submission of the financial statements.

OLD BUSINESS: Mr. Kern stated that there was no Old Business at this time.

OLD BUSINESS

NEW BUSINESS:

NEW BUSINESS

1. Authorization for Professional Services: (Capital Funds).

Authorization for
Professional
Services

A. Brown And Caldwell – Proposal Dated November 9, 2023 – For Professional Services For Technical Support For Review Of DRBC's Analysis Of Attainability To Improve Dissolved Oxygen In The Delaware River Estuary – Total Additional Amount Not To Exceed \$17,483.00 (Capital Funds). Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

Brown & Caldwell
Review DRBC
Analysis – Improve
DO in Delaware River
Estuary

It was moved by Mr. Mullen, seconded by Mr. Moss, and unanimously carried to approve this Professional Services proposal.

B. Gannett Fleming – Proposal Dated November 17, 2023 – For Professional Engineering Services For The Structural Evaluation Of The Electrical Conduit At The Darby Creek Pump Station – Total Amount Not To Exceed \$5,000.00 (Capital Funds) (added to agenda).

Gannett Fleming
Evaluate Electrical
Conduit at DCPS

Mr. Kern stated that this item was not previously discussed at the Operations and Engineering Committee meeting. Mr. DiSantis stated that while doing some work at this pump station, there was conduit found underneath the building that was not properly secured and it's integral to the structure. This proposal is for the engineering firm to evaluate the conduit and determine a solution to fix it. Mr. Kern also added that because of the age of the system, we may be seeing more of this type of repair work. In response to a question from Ms. Nichols, Mr. DiSantis said that the engineer's findings are being reviewed and the best way to fix the issues as soon as possible will be determined.

It was the consensus of the Board to recommend approval.

It was moved by Mr. Mullen, seconded by Ms. Nichols, and unanimously carried to approve this Professional Services proposal.

2. Authorization for Professional Services: (Operating Funds)

Authorization for
Professional
Services

A. Castle Valley Consultants, Inc. – Proposal Dated October 3, 2023 – Professional Engineering Services For Preparation Of Municipal Wasteload Management Report For The Preserves (Corinne Village) Wastewater Treatment Plant, Pocopson Township, Chester County, PA – Total Amount Not To Exceed \$2,175.00 (Operating Funds).

Castle Valley
Wasteload Report
for Preserves
(Corinne Village)
WWTP

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Ms. Billings, and unanimously carried to approve this Professional Services proposal.

B. Castle Valley Consultants, Inc. – Proposal Dated October 3, 2023 – Professional Engineering Services For Preparation Of Groundwater Report For The Preserves (Corinne Village) Wastewater Treatment Plant, Pocopson Township, Chester County, PA – Total Amount Not To Exceed \$1,420.00 (Operating Funds).

Castle Valley
Groundwater
Report for
Preserves (Corinne
Village) WWTP

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Mr. Nagle, and unanimously carried to approve this Professional Services proposal.

C. Castle Valley Consultants, Inc. – Proposal Dated October 3, 2023 – Professional Engineering Services For Preparation Of Municipal Wasteload Management Report For The Riverside Wastewater Treatment Plant, Pocopson Township, Chester County, PA – Total Amount Not To Exceed \$2,175.00 (Operating Funds). Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

Castle Valley
Wasteload Report
for Riverside
WWTP

It was moved by Mr. Nagle, seconded by Mr. Moss, and unanimously carried to approve this Professional Services proposal.

D. Castle Valley Consultants, Inc. – Proposal Dated October 3, 2023 – Professional Engineering Services For Preparation Of Groundwater Report For The Riverside Wastewater Treatment Plant, Pocopson Township, Chester County, PA – Total Amount Not To Exceed \$1,420.00 (Operating Funds). Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

Castle Valley
Groundwater
Report for Riverside
WWTP

It was moved by Mr. Moss, seconded by Mr. Mullen, and unanimously carried to approve this Professional Services proposal.

E. Weston Solutions, Inc. – Proposal Dated November 3, 2023 – For Professional Engineering Services To Prepare DELCORA’s Annual Chapter 94 Municipal Wasteload Management Reports For 2023 – Total Amount Not To Exceed \$34,000.00 (Operating Funds). Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

Weston
Prepare 2023
Ch. 94 Report

It was moved by Ms. Nichols, seconded by Mr. Mullen, and unanimously carried to approve this Professional Services proposal.

F. Chavond-Barry Engineering Corp. – Proposal Dated November 15, 2023 – For 2024 Incinerator Operator Training – Total Amount Not To Exceed \$10,000.00 (Operating Funds) (added to agenda). Mr. Kern stated that this item was not previously discussed at the Operations and Engineering Committee meeting. Mr. DiSantis stated that this annual training is required by the PADEP and will be done in January. Also, he stated that there are a limited number of firms that provide this type of engineering and we’ve engaged Chavond-Barry in previous years for operator training and stack testing.

Chavond-Barry
2024 Operator
Training

It was the consensus of the Board to recommend approval.

It was moved by Ms. Nichols, seconded by Mr. Mullen, and unanimously carried to approve this Professional Services proposal.

3. Authorization To Purchase:

Authorization to
Purchase

- Fred Beans Ford Of West Chester – Quote Dated October 24, 2023 – For The Purchase Of One (1) 2024 F-350 4X4 Regular Cab Through The PA COSTARS Contract #025-E22-413 – Total Amount Not To Exceed \$50,513,82 (Capital Funds).

Fred Beans
One 2024 F-350
Regular Cab

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Mr. Moss, and unanimously carried to approve the above purchase.

- Fred Beans Ford Of West Chester – Quote Dated October 24, 2023 – For The Purchase Of One (1) 2024 F-350 4x4 Crew Cab Through The PA COSTARS Contract #025-E22-413 – Total Amount Not To Exceed \$54,757.82 (Capital Funds).

Fred Beans
One 2024 F-350
Crew Cab

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Ms. Sage, and unanimously carried to approve the above purchase.

- Fred Beans Ford Of West Chester – Quote Dated October 24, 2023 – For The Purchase Of Two (2) 2024 Bronco Sport 4x4 Through The PA COSTARS Contract #025-E22-413 – Total Amount Not To Exceed \$66,149.64 (Capital Funds).

Fred Beans
Two 2024 Bronco
Sport 4x4

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Mr. Moss, and unanimously carried to approve the above purchase.

- Northeast Technical Sales, Inc. – Quote HC-080223-01TFJD-REV02 Dated October 25, 2023 – For The Purchase Of 52 Flow Meters (FL900 Loggers With AV9000 Sensor Analyzer Module) With Extended 2 Year Warranties For Sensors And Modules Through The PA COSTARS Contract #016-E23-336 – Total Amount Not To Exceed \$323,648.00 (Capital Funds).

Northeast Technical
52 Flow Meters

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Ms. Billings, and unanimously carried to approve the above purchase.

- Northeast Technical Sales, Inc. – Quote HC-092623-01TFJD Dated September 26, 2023 – For The Purchase Of Spare Parts To Support Metering Program Including Fifteen (15) Area Velocity Sensors And Modules, Five (5) FLO-DAR Downlooker Ultrasonic Sensors For FL900 And Five (5) FLO-DAR Sensors (No SVS), And Five (5) FLO-DAR Sensor Cables Through The PA COSTARS Contract #016-E23-336 – Total Amount Not To Exceed \$103,329.25 (Capital Funds).

Northeast Technical
Spare Parts for
Meters

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Mr. Moss, and unanimously carried to approve the above purchase.

- Trimble, Inc. – Quote #Q-35986-1 Dated November 1, 2023 – For The Purchase Of Fifty-Two (52) TELOG RU-35 Analog Units And Fifty-Two (52) Interface Cables For HACH FL900 And RU-35 (Sole Source Vendor) – Total Amount Not To Exceed \$192,816.00 (Capital Funds).

Trimble, Inc.
52 Telog Analog Units
& 52 Interface Cables

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval. In response to a question from Mr. Kern, Mr. DiSantis explained that these are units that are placed inside manholes or beneath the roadway and they relay the information from the flow meters to the metering software system used by CSL and Weston. Mr. Kern added that these are a specific brand of units and need to be replaced with the same brand in order to have the continued compatibility to download the information from the meters.

It was moved by Mr. Moss, seconded by Mr. Mullen, and unanimously carried to approve the above purchase.

- BIO TRIAD – Quote Dated October 19, 2023 – For Implementing Totes (\$102,201.00 Annually) & Scrub Dry Service For Odor Control Via A Sole Source Purchase (\$2,865.00) – Total Amount Not To Exceed \$105,066.00 (Operating Funds).

BioTriad
Odor Control

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval. Mr. Kern noted that the odor system is in place and these supplies are provided directly from the manufacturer.

It was moved by Ms. Nichols, seconded by Mr. Mullen, and unanimously carried to approve the above purchase.

- United Rentals – Quote Dated October 26, 2023 – For The Purchase Of One (1) Boom 60-64’ Articulating And Four (4) Quarterly Maintenance Inspections Through The PA COSTARS Contract #008-E22-782 – Total Amount Not To Exceed \$32,098.38 (Capital Funds).

United Rentals
One Articulating
Boom & Four Qrtly.
Inspections

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Moss, seconded by Ms. Nichols, and unanimously carried to approve the above purchase.

- EVOQUA Water Technologies – Quote Dated October 23, 2023 – For The Purchase Of One (1) Water Champ 25FX Chemical Induction Unit And One (1) System Control Panel Through The PA COSTARS Contract #016-E23-0284 – Total Amount Not To Exceed \$50,966.00 (Capital Funds).

Evoqua Water Tech.
One Water Champ
Chemical Induction
Unit & One Control
Panel

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Mr. Moss, and unanimously carried to approve the above purchase.

- XYLEM – Quote Dated November 2, 2023 – For Parts And Labor To Repair The Allis-Chalmers Axial Flow Pump Serial #7758 At Chester Pump Station Through The PA COSTARS Contract #016-E23-311 – Total Amount Not To Exceed \$122,657.15 (Capital Funds).

Xylem
Repair Flow Pump At
CPS

Mr. Kern stated that this item was discussed at the Operations and Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Mullen, seconded by Mr. Moss, and unanimously carried to approve the above purchase.

- Edwin Elliot & Company – Quote Dated November 14, 2023 – For Replacement Electric Actuators For Two (2) 24” Plug Valves And One (1) 24” Gate Valve At The Central Pump Station Through The PA COSTARS Contract #016-E23-297 – Total Amount Not To Exceed \$45,410.00 (Capital Funds) (added to agenda).

Edwin Elliot & Co.
Replacement Electric
Actuators At CDPS

Mr. Kern stated that this item was not previously discussed at the Operations and Engineering Committee meeting. Mr. DiSantis stated that the valves are operated by a motor-driven device and, as mentioned earlier, the age of the pump stations necessitates repair or replacement of parts. Edwin Elliott is the manufacturer’s representative for this specific brand of electric actuators.

It was the consensus of the Board to recommend approval.

It was moved by Mr. Moss, seconded by Mr. Mullen, and unanimously carried to approve the above purchase.

4. 2024 DELCORA Budget Approval.

2024 Budget
Approval

Mr. Kern stated that this item was discussed at the Finance Committee meeting and it was consensus of the committee to recommend Board approval.

It was moved by Mr. Knapp, seconded by Mr. Nagle, and unanimously carried to approve DELCORA's 2024 Budget.

5. Leitzell & Economidis, PC – Approval As Auditor For Year 2023 Due To Preliminary Work In December 2023 (fee: \$39,000.00).

Leitzell &
Economides -
Auditor for Year
2023

Mr. Kern stated that this item was discussed at the Finance Committee meeting and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Knapp, seconded by Ms. Nichols, and unanimously carried that the proposal of Leitzell & Economidis, PC dated November 6, 2023, be accepted and that this firm be engaged to audit the financial statements of the Authority as of and for the year ended December 31, 2023, for a fee not to exceed \$39,000.00.

6. Resolution No. 2023-08 – Establishing Hauled Waste Rates – Effective January 1, 2024 (Rescinds Resolution No. 2019-05). Price Adjustment Requests Are As Follows:

Res. No.
2023-08

- **RATE CLASS 1 DOMESTIC WASTE** - Requested Increase To 0.025 Per Gallon, Which Is An Increase Of Half A Penny Per Gallon
- **RATE CLASS IV GREASE** - Requested Increase To 0.15 Per Gallon, Which Is An Increase Of 9 Cents Per Gallon. New Price Will Be 0.15 Per Gallon
- **RATE CLASS VI FOOD INDUSTRIAL** - Requested Increase To 0.040 Per Gallon, Which Is An Increase Of 1.5 Cents Per Gallon
- **RATE CLASS VII LANDFILL LEACHATE** - Requested Increase To 0.02 Per Gallon, Which Is An Increase Of A Penny Per Gallon

Mr. Kern stated that this item was discussed at the Strategic Planning & Goals Committee meeting, and it was the consensus of the committee to recommend Board approval.

It was moved by Mr. Nagle, seconded by Mr. Moss, and unanimously carried to adopt Resolution No. 2023-08.

7. Resolution No. 2023-09 – Authorizing The Disposition Of Hauler Permits From 2011-2012, Right To Know Files From 2015-2021, And Miscellaneous Admin Files. Mr. Kern stated that this item was discussed at the Operations & Engineering Committee meeting, and it was the consensus of the committee to recommend Board approval. Res. No. 2023-09

It was moved by Mr. Mullen, seconded by Ms. Sage, and unanimously carried to adopt Resolution No. 2023-09.

8. Resolution No. 2023-10 – Establishing Policy For Current Treatment Options In The Authority's Eastern Service Area. Mr. Kern stated that this item was discussed at the Strategic Planning & Goals Committee meeting, and it was the consensus of the committee to recommend Board approval. Mr. Kern dismissed the Ad Hoc Committee and thanked them for their efforts in creating this policy. Res. No. 2023-10

It was moved by Mr. Nagle, seconded by Ms. Billings, and unanimously carried to adopt Resolution No. 2023-10.

EXECUTIVE SESSION: There was no Executive Session.

EXECUTIVE
SESSION

ADJOURNMENT: It was moved by Mr. Mullen, seconded by Mr. Knapp, and unanimously carried to adjourn the regular meeting at 4:15 P.M.

ADJOURNMENT

Attachment – Exhibit A

ATTEST
Secretary

LEGAL UPDATE MEMORANDUM

To: DELCORA Board Members
From: Legal Liaison Committee
November 13, 2023

ADMINISTRATIVE PROCEEDINGS

- Federal bankruptcy judge has ruled that the PUC hearing is stayed until there is a final unappealable order regarding the Chester bankruptcy. AQUA has appealed the ruling to Federal District Court; no hearing date has been set.

CITY OF CHESTER REVERSIONARY INTEREST AND BANKRUPTCY

- August 2022: Receiver for the City of Chester filed an Action for Declaratory Judgement and Injunctive Relief against DELCORA claiming DELCORA had failed to appropriately recognize Chester's reversionary interest in certain DELCORA assets should the Authority cease to exist. Chester and DELCORA stipulated to stay until resolution of bankruptcy; AQUA objected to stay and filed Preliminary Objections (POs). Receiver withdrew the complaint without prejudice at a hearing on August 28, 2023.
- November 2022: On behalf of the City of Chester, Receiver filed for Chapter 9 bankruptcy. DELCORA is a named party as a potential creditor due to reversionary interest. Valuation of the assets to be included in the reversionary interest is ongoing, as is mediation.

OTHER ONGOING LEGAL PROCEEDINGS

- May 2020: Delaware County filed a complaint against DELCORA relating to the legality, enforceability, and integrity of the Asset Purchase Agreement (APA) and the Rate Stabilization Fund Trust. AQUA intervened in the case. The complaint was later amended to add a count in mandamus to enforce Delaware County Ordinance 2020-04, which ordered the dissolution of DELCORA. Common Pleas Court found that all were legal and enforceable (with the Trust matter subject to PUC jurisdiction). On appeal, Commonwealth Court remanded to Common Pleas Court, finding that the trial court erred in denying the County's request for a writ of mandamus and injunctive relief. The Commonwealth Court did not make any findings on the remaining four questions that were presented. On remand, Common Pleas Court entered a substantially similar opinion, making minor changes. The County filed a request for re-argument. A hearing before the Commonwealth Court was scheduled for October 10, 2023, but the case did not make the final October argument schedule; a new date has not been set.
- January 2023: DELCORA filed a complaint for Declaratory Judgement against AQUA and Delaware County asking the Court to determine if DELCORA can proceed with the sale or

the termination of the Authority given the conflict between the APA and county ordinance terminating DELCORA (2020-4), specifically asking which action supersedes the other. The complaint also requested that the Court determine if DELCORA is permitted to operate under the Municipalities Authorities Act (MMA) solely as a Trust. Hearing was scheduled for October 12, 2023, but was cancelled pending Commonwealth Court on the Delaware County complaint. It is not anticipated that Judge Dozor will hear this case until the Commonwealth Court makes a final ruling on his jurisdictional authority.

- June 2023: AQUA filed an action for Declaratory and Injunctive Relief stating that any extension of the length of DELCORA's Agreement with PWD is outside of DELCORA's ordinary course of business and should be prohibited without AQUA's full participation. DELCORA responded and filed a counterclaim for interference with contractual obligations. AQUA has twice filed POs to DELCORA's counterclaim; DELCORA has responded with updated amended complaints. No court date scheduled.

TRUSTEE:

- Uninvest has resigned as Trustee and has requested coverage of legal costs. A settlement offer is under consideration. A hearing in Orphan's Court related to the appointment of successor Trustee was postponed; a new Court date is set for November 20, 2023. However, DELCORA has received no further reply or communication from Uninvest.

PFAS

- Two firms have submitted letters of interest to represent the Authority in class-action litigation related to recovery of costs that have incurred and/or will incur due to the presence of PFAS (per- and polyfluoroalkyl) chemicals in DELCORA's wastewater effluent, spray irrigation, reuse water, and biosolids. No decision by the Board.