

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Bureau of Watershed Management**  
**Division of Water Use Planning**

**DOCUMENT NUMBER:** 392-2130-012

**TITLE:** POLICY FOR RECOGNIZING SUCCESSION TO WATER RIGHTS AS A  
RESULT OF CHANGES OF OWNERSHIP

**AUTHORITY:** Water Rights Act of June 24, 1939, P.L. 82, No. 365, as amended, 32 P.S., 631, et seq.

**POLICY:** The Department will follow a department-wide, standard process for recognizing succession to water rights by new owners who take over or acquire existing water supply systems which hold valid water allocation permits or orders of confirmation.

**PURPOSE:** The purpose of this proposal is to provide a means for the Department to recognize the succession to water rights by new owners who, by whatever means and for whatever reason, take over or acquire existing public water supply systems which are lawfully withdrawing surface waters, in cases only where the new owner institutes no substantive changes to the terms and conditions of development and use of the surface water source(s) as contained in the existing approvals. Adherence to this policy will eliminate the need for new owners to operate in technical violation, awaiting a new permit. This procedure will also eliminate the “shock” factor which sometimes results when new owners discover that their allocation permits approve lesser quantities of water than were approved in the previous owner’s permit.

**APPLICABILITY:** This policy will apply to all take-overs or acquisitions, by whatever means, of public water supply systems which use surface water supply sources, either directly or through bulk purchase, pursuant to the Water Rights Act; provided that the previous owner holds at the time of take-over or acquisition a valid water allocation permit or order of confirmation; and provided that all terms and methods of development of the source(s) as described in the previous owner’s permit or order of confirmation continue to apply under the new owner. If it is necessary to modify any of the substantive terms of the current valid permit or order of confirmation because of circumstances which may have changed since the previous owner’s application was filed, then this policy shall not apply and a new application will be needed to effect the succession of water rights. This policy applies only to changes in ownership when nothing is changing except ownership.

**DISCLAIMER:** The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures shall affect more stringent regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of the Department to give these rules that weight or deference. This document establishes the framework, within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

**PAGE LENGTH:** 6

**LOCATION:** Vol. 15, Tab 11

## TECHNICAL GUIDANCE:

Upon receipt of a "Notice Of Succession To Water Rights" (See Appendix A), the Department will recognize such succession, generally within 30 days, by forwarding to the succeeding water supply agency a letter in the form provided in Appendix B. Both the notice and the letter will be placed in the Department's water allocation file. No permit shall be issued to the succeeding owner unless such owner submits a complete "Application For Water Allocation"; upon receipt of such an application, the Department will follow all review and permit issuance or denial procedures as normally apply to applications for surface water allocation permits.

This procedure provides for minimal action on the part of the Department and recognizes the succession to all existing water rights. Any and all terms and conditions pertinent to those water rights are retained upon the change of ownership of the water supply system. No new conditions need be applied to the existing order of confirmation or permit solely as a result of the change of ownership of the water supply system.

### I. PROCEDURE

The steps in the process are described below.

1. The succeeding public water supply agency submits to the Department a "Notice Of Succession To Water Rights", signed by responsible officials of both water supply agencies, in the format provided in Appendix A. The notice confirms that no change will occur to the development and use of the surface water source(s).
2. The Department searches the record to confirm that either a valid water allocation permit or a valid order of confirmation exists for the source(s), in the name of the public water supply agency which is being taken over or acquired.
3. The Department forwards to the succeeding public water supply agency a letter acknowledging the succession to water rights. The letter will contain the standard appeal paragraph. A copy of the letter is forwarded to either the Susquehanna or the Delaware River Basin Commission, if applicable. If the water rights being succeeded to apply to a direct withdrawal of surface waters, and do not apply solely to the purchase of surface waters, a copy of the letter is forwarded to the Pennsylvania Fish and Boat Commission.
4. The Department publishes in the Pennsylvania Bulletin a notice of such recognition of change of ownership, in the format provided in Appendix C.

## APPENDIX A

### NOTICE OF SUCCESSION TO WATER RIGHTS

Water Supply Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

party of the first part, hereby serves notice that on

Date: \_\_\_\_\_

it will succeed/succeeded to all of the rights and obligations under the following Order(s) of Confirmation and/or Water Allocation Permit(s):

Order of Confirmation: \_\_\_\_\_ Date: \_\_\_\_\_

Order of Confirmation: \_\_\_\_\_ Date: \_\_\_\_\_

Water Allocation Permit: \_\_\_\_\_ Date: \_\_\_\_\_

Water Allocation Permit: \_\_\_\_\_ Date: \_\_\_\_\_

Water Allocation Permit: \_\_\_\_\_ Date: \_\_\_\_\_

issued to

Water Supplier Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

party of the second part, and will use the same source(s) of water supply and facilities and will service the same service area(s) and customers, in conformance with the description(s) of such source(s), facilities, service area(s) and customers as may be contained in the application(s) for, and as may be contained in any report by the Department on, and in conformance with any conditions, restrictions or modifications thereto which may now apply to, the above-named order(s) of confirmation and/or water allocation permit(s), and further attests that continued use of the source(s) will not conflict with prior existing water rights of another public water supply agency, interfere with navigation, jeopardize public safety or cause substantial injury to the Commonwealth.

\_\_\_\_\_

Name (Please print or type) Signature (party of first part)

---

Name (Please print or type) Signature (party of second part)

---

Date

## APPENDIX B

### LETTER ACKNOWLEDGING SUCCESSION TO WATER RIGHTS

Dear \_\_\_\_\_:

This is to acknowledge receipt of your Notice Of Succession To Water Rights, dated (date), notifying the Department of the (pending) change in ownership of the surface water sources used by (previous owner). Based upon the Notice, we understand that (new owner) (will succeed and replace / succeeded and replaced) (previous owner) as the public water supplier in the service territory of (previous owner). We further understand that (new owner) will use the same source(s) of water supply and facilities and service the same service area(s) and customers.

Accordingly, the Department recognizes that (new owner) (will succeed / succeeded), upon closing, to all of the rights and obligations of (previous owner) under (WA permit / order of confirmation) issued on (date) (and under (WA permit / order of confirmation) issued on (date)). The Department's recognition of (new owner) as the successor is based upon the following conditions:

1. The nature of the change of ownership transaction in its final form is consistent with our understandings as set forth in this letter and as further described to the Department.
2. (new owner) shall use the source(s) consistent with the (confirmed and/or permitted) uses by (previous owner) and shall abide by the terms, conditions and restrictions contained in the (Order(s) of Confirmation / Permit(s)).
3. Continued use of the source(s) by (new owner) will not conflict with prior existing water rights of another public water supply agency, interfere with navigation, jeopardize public safety or cause substantial injury to the Commonwealth.

Of course, the Department reserves all rights and authority to modify the (Order(s) of Confirmation and/or Permit(s)) in the future pursuant to Sections 4 and 7 of the Water Rights Act, 32 P.S. Sections 634 and 637.

(Include standard appeal paragraph here)

Sincerely,

## APPENDIX C

### PENNSYLVANIA BULLETIN NOTICE

Actions taken on (permits / orders of confirmation) issued under the Act of June 24, 1939 (P.L. 842, No. 365) (32 P.S. Sections 631-641) relating to the acquisition of rights to divert waters of the Commonwealth.

Field Office Name and Address

Change of Ownership

WA\_\_\_\_-\_\_\_\_\_. Succession to Water Rights. The Department has acknowledged that \_\_\_\_\_(agency), \_\_\_\_\_(town), \_\_\_\_\_County, has given notice that it (will succeed / succeeded) to all rights and obligations under the (*order of confirmation / permit*), issued to the former \_\_\_\_\_(agency), \_\_\_\_\_(town), \_\_\_\_\_County on \_\_\_\_\_(date).