

DOCKET NO. D-1985-065 CP-2

DELAWARE RIVER BASIN COMMISSION

Discharge to the Drainage Area of Special Protection Waters

Town of Liberty

**Loomis Wastewater Treatment Plant Upgrade
Town of Liberty, Sullivan County, New York**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Kelly Engineering, P.C. on behalf of the Town of Liberty on April 4, 2012 (Application), for review of modifications to an existing wastewater treatment plant (WWTP). State Pollutant Discharge Elimination System (SPDES) Permit No. NY0030261 for this project was issued by the New York State Department of Environmental Conservation (NYSDEC) on May 2, 2011.

The Application was reviewed for inclusion and continuation of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact*. The Sullivan County Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on December 5, 2012.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to renew approval of the existing 0.08 million gallons per day (mgd) Town of Liberty Loomis Wastewater Treatment Plant (WWTP) and to approve proposed modifications to the WWTP. The modification include the addition of a rotating biological contactor and clarifier to the existing sand filter and polishing lagoon treatment system.

2. Location. The project WWTP is located off of Route 52, just east of its intersection with Lake Marie Road, in the Town of Liberty, Sullivan County, New York. The project WWTP will continue to discharge to an unnamed tributary (UNT) to Swan Lake, which is an impoundment just upstream of the West Branch Mongaup River, which itself is a tributary to the Mongaup River, located at River Mile 261.1 – 19.7 – 8.2 – 1.0 – 1.1 (Delaware River – Mongaup River – West Branch Mongaup River – Swan Lake – UNT to Swan Lake) in the drainage area to the Upper Delaware Special Protection Water (SPW) Area.

The WWTP and its related discharge are located in the Mongaup River Watershed as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	41° 47' 12"	74° 47' 6"

3. Area Served. The Loomis WWTP will continue to serve portions of the Town of Liberty. For the purpose of defining the Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. Physical features.

a. Design criteria. The existing WWTP consists of a sand filter and polishing lagoon treatment system designed to treat an average annual flow of 0.08 mgd. The project proposes to add one (1) rotating biological contactor (RBC) and one (1) clarifier to the existing treatment system in order to increase Ammonia-Nitrogen removal in the winter months. The proposed RBC and clarifier are the first modifications (Phase I) of a planned phased upgrade to the facility and are designed to treat a flow up to 50,000 gallons per day (gpd). Phase II consists of a future project to construct an additional RBC and clarifier designed to treat an additional 50,000 gpd of flow; however Phase II will not be constructed at this time. The WWTP will remain permitted by the NYSDEC to treat a flow up to 80,000 gpd until Phase II of the project is constructed (See Decision section Condition II.q.).

b. Facilities. The existing WWTP features two (2) interceptor septic tanks, a dosing chamber, two (2) open sand filters, four (4) overland flow cells, a recirculating pump station, a polishing lagoon, and ultraviolet light (UV) disinfection.

The upgrade includes adding a flow splitting chamber, an RBC unit, and a clarifier; and converting the two (2) existing interceptor septic tanks to (2) digestors.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available emergency power. The docket holder provided information that the existing facility includes a receptacle and manual transfer switch to accept a portable generator; however full emergency power is not currently provided at the WWTP. The docket holder is required to provide for emergency power at the WWTP within one (1) year of docket approval (by December 5, 2013), or upon completion of the reconstructed WWTP, whichever occurs first (see Condition II.s.). (SPW)

The docket holder's wastewater treatment facility is not staffed 24 hours per day, and is required to have a remote alarm system that continuously monitors plant operations. The docket holder provided information that the existing facility has an automatic dialer at the WWTP that contacts an on-call plant operator in case of emergency. (SPW)

The docket holder has prepared and implemented an emergency management plan (EMP) in accordance with Commission requirements for the existing and upgraded WWTP. (SPW).

The existing and proposed project facilities are located outside the 100-year flood plain.

Wasted sludge will continue to be hauled off-site by a licensed hauler for disposal at a (State-approved) facility.

c. **Water withdrawals.** The potable water supply in the project service area is supplied by groundwater wells owned and operated by the Stevensville Water District. The groundwater withdrawal was approved by the Commission via Docket No. D-1967-121 CP-1 on December 13, 1967.

d. **SPDES Permit / DRBC Docket.** SPDES Permit No. NY0030261 was approved by the NYSDEC on May 2, 2011 and includes effluent limitations for the project discharge of 0.08 mgd to surface waters classified by the NYSDEC as Class B (T) stream, designated for swimming, recreational and trout fishing uses. Note: The NYSDEC has indicated that a future SPDES permit will include INTERIM effluent limitations for a flow of 0.08 mgd which are to be in effect for Phase I of the phased upgrade. The future SPDES permit will also include FINAL limits that will go in effect upon construction of Phase II of the phased upgrade. This docket approves only Phase I of the phased upgrade, and therefore includes effluent limits based on a flow of 0.08 mgd (See FINDINGS section of this docket).

The following effluent limits are among those listed in the SPDES permit and meet or are more stringent than the effluent requirements of the DRBC. The effluent limits apply to the existing and modified WWTP.

EFFLUENT TABLE A-1: DRBC Parameters Included in SPDES permit

OUTFALL 001 (Discharge to UNT to Swan Lake)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6.5 to 8.5 at all times	As required by SPDES permit
Total Suspended Solids	10.0 mg/l (85% minimum removal)	As required by SPDES permit
CBOD (5-Day at 20° C)	5.0 mg/l (85% minimum removal)	As required by SPDES permit
Ammonia Nitrogen	2.0 mg/l	As required by SPDES permit
Fecal Coliform	200 colonies per 100 ml	As required by SPDES permit
Dissolved Oxygen	7.0 mg/l	As required by SPDES permit

* DRBC Requirement

EFFLUENT TABLE A-2: DRBC parameters not included in SPDES permit

OUTFALL 001 (Discharge to UNT to Swan Lake)		
PARAMETER	LIMIT	MONITORING
Total Dissolved Solids*	1,000 mg/l	Quarterly

* See DECISION Condition II.w.

e. **Cost.** The overall cost of this project is estimated to be \$881,600.

f. **Relationship to the Comprehensive Plan.** The project WWTP was included in the Comprehensive Plan on October 28, 1986 upon approval of Docket No. D-1985-065 CP-1. Issuance of this docket will continue the WWTP approval in the Comprehensive Plan (See DECISION Condition I.c.).

B. **FINDINGS**

The purpose of this docket is to renew approval of the existing 0.08 mgd Loomis WWTP and to approve proposed modifications to the facility. Modifications include adding one (1) RBC and one (1) clarifier to the existing sand filter and polishing lagoon treatment system in order to increase Ammonia-Nitrogen removal in the winter months. The proposed modifications to add a RBC and a clarifier are the first phase (Phase I) of a planned phased upgrade to the facility and are designed to treat a flow up to 50,000 gallons per day (gpd). Phase II consists of a future project to construct one (1) additional RBC and one (1) additional clarifier designed to treat an additional 50,000 gpd of flow, which will increase the design capacity of the facility from 80,000 gpd to 100,000 gpd.

The WWTP will remain permitted by the NYSDEC to treat a flow up to 80,000 gpd until Phase II of the project is constructed. This docket approves Phase I of the upgrade only and therefore continues the approval of the hydraulic design capacity of 80,000 gpd for the WWTP. Upon initiation of Phase II of the phased upgrade, the docket holder is required to submit an application to the DRBC for review and approval of the Phase II construction and for the increase in hydraulic design capacity (Decision section Condition No.II.q).

In 1992, the DRBC adopted SPW requirements, as part of the DRBC *Water Quality Regulations* (WQR), designed to protect existing high water quality in applicable areas of the Delaware River Basin. One hundred twenty miles of the Delaware River from Hancock, New York downstream to the Delaware Water Gap has been classified by the DRBC as SPW. This stretch includes the sections of the river federally designated as "Wild and Scenic" in 1978 -- the Upper Delaware Scenic and Recreational River and the Delaware Water Gap National Recreation Area -- as well as an eight-mile reach between Milrift and Milford, Pennsylvania which is not federally designated. The SPW regulations apply to this 120-mile stretch of the river and its drainage area. (Upper SPW)

On July 16, 2008, the DRBC approved amendments to its *WQR* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation and clarity on definitions and terms were updated for the entire program. The docket holder is performing substantial alterations or additions as defined in Section 3.10.3A.2.a.16) of the Commission's WQR. However projects above the major surface water impoundments listed in Section 3.10.3.A.2.g.5) where time of travel and relevant hydraulic and limnological factors preclude a direct impact on Special Protection Waters are exempt from the SPW requirements.

The docket holder's WWTP discharges to an unnamed tributary to the Swan Lake, which is a tributary to the Mongaup River upstream of a group of water impoundments referred to as the Mongaup System. Although the WWTP is located in the tributary area to the Upper Delaware River Special Protection Waters, the Mongaup System is one of the major surface water impoundments that are listed in Section 3.10.3A.2.g.5) the docket holder's WWTP is exempt from the Special Protection Waters requirements, as outlined in Article 3.10.3A.2. of the WQR.

The docket holder is performing substantial alterations or additions as defined in Section 3.10.3A.2.a.16) of the Commission's WQR. As a result, a no measurable change (NMC) to existing water quality (EWQ) analysis and natural treatment alternatives (NTA) analysis are required to be submitted prior to approval of the modifications in accordance with the Commission's WQR. Factoring in the time of travel and relevant hydraulic and limnological factors that exempt the facility from submitting a NPSPCP, the Commission's SPW Comment Response document exempts WWTP discharges above major reservoirs, like those in the Mongaup System, from performing these two analyses. As such, grandfathered loads do not need to be established for these types of facilities and monitoring for SPW parameters not already found in the docket holder's SPDES Permit have been deemed unnecessary.

The nearest surface water intake of record for public water supply downstream of the project discharge is the City of Easton intake on the Delaware River, located approximately 106 miles downstream.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The limits in the SPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the WQR of the DRBC.

C. DECISION

- I. Effective on the approval date for Docket No. D-1985-065 CP-2 below:
 - a. The project(s) described in Docket No. D-1985-065 CP-1 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1985-065 CP-2; and
 - b. Docket No. D-1985-065 CP-1 is terminated and replaced by Docket No. D-1985-065 CP-2; and
 - c. The project and the appurtenant facilities described in Section A "Physical Features" of this docket shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in Section A “Physical Features” of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the NYSDEC in its SPDES permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

b. The facility and operational records shall be available at all times for inspection by the DRBC.

c. The facility shall be operated at all times to comply with the requirements of the Commission’s WQR.

d. The docket holder shall comply with the requirements contained in the Effluent Tables in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results directly to the DRBC Project Review Section. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations.

e. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

f. If at any time the receiving treatment plant proves unable to produce an effluent that is consistent with the requirements of this docket approval, no further connections shall be permitted until the deficiency is remedied.

g. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

h. The discharge of wastewater shall not increase the ambient temperatures of the receiving waters by more than 5°F until stream temperatures reach 50°F, nor by more than 2°F when stream temperatures are between 50°F and 58°F, nor shall such discharge result in stream temperatures exceeding 58°F.

i. Sound practices of excavation, backfill and reseedling shall be followed to minimize erosion and deposition of sediment in streams.

j. Within 10 days of the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date.

k. Within 30 days of completion of construction of the approved project, the docket holder is to submit to the attention of the Project Review Section of DRBC a Construction Completion Statement (“Statement”) signed by the docket holder’s professional engineer for the project. The Statement must (1) either confirm that construction has been completed in a manner consistent with any and all DRBC-approved plans or explain how the as-built project deviates from such plans; (2) report the project’s final construction cost as such cost is defined by the project review fee schedule in effect at the time the application was made; and (3) indicate the date on which the project was (or is to be) placed in operation. In the event that the final project cost exceeds the estimated cost used by the docket holder to calculate the DRBC project review fee, the statement must also include (4) the amount of any outstanding balance owed for DRBC review. The outstanding balance will equal the difference between the fee paid to the Commission and the fee calculated on the basis of the project’s final cost, using the formula and definition of “project cost” set forth in the DRBC’s project review fee schedule in effect at the time application was made.

l. The WWTP modifications shall be completed within three years of approval of this docket or the docket holder shall demonstrate to the Executive Director that it has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval. If the modifications have not been completed within three years of Docket Approval and the docket holder does not submit a cost analysis demonstrating substantial funds have been expended, Commission approval of the modifications to the existing WWTP shall expire. If the docket expires under this condition, the docket holder shall file a new application with the Commission and receive Commission approval prior to initiating construction of any modifications.

m. The docket holder is permitted to treat and discharge wastewaters as set forth in the Area Served Section of this docket, which incorporates by reference Sections B (Type of Discharge) and D (Service Area) of the docket holder’s Application to the extent consistent with all other conditions of this DECISION Section.

n. The docket holder shall make wastewater discharge in such a manner as to avoid injury or damage to fish or wildlife and shall avoid any injury to public or private property.

o. No sewer service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

p. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

q. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

r. This docket approves the construction of the Phase I modifications as outlined herein and included in the docket application. The docket holder will not proceed to

construction with the proposed Phase II expansion and modifications without first filing an application with the Commission and receiving written (docket) Commission approval for the Phase II expansion and modifications. To allow adequate time for Commission review and action, the docket holder will file the application with the Commission at least one (1) year prior to the anticipated date that it will issue requests for bids on Phase II.

s. The docket holder shall provide for emergency power at the WWTP within one (1) year of docket approval (or upon completion of the reconstructed WWTP, whichever occurs first). The docket holder shall certify in writing to the Commission that it has complied with this condition by December 5, 2013.

t. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

u. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

v. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

w. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

x. Nothing in this docket constitutes a defense to any penalty action for past conduct of the docket holder or ongoing activity not authorized by this approval. In particular, renewal of this docket does not resolve violations – whether in the past or continuing – of provisions of the Delaware River Basin Compact ("Compact") or any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the Compact. The Commission reserves its right to take appropriate enforcement action against the docket

holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the Compact, for any and all such prior or continuing violations.

y. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.

BY THE COMMISSION

DATE APPROVED: December 5, 2012

EXPIRATION DATE: November 30, 2016