

DOCKET NO. D-1980-032 CP-5

DELAWARE RIVER BASIN COMMISSION

Located in Drainage Area to Special Protection Waters

**Pennsylvania Fish & Boat Commission
Groundwater and Surface Water Withdrawal
Mount Pleasant Township, Wayne County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on June 6, 2023 for renewal of an allocation of ground and surface water and review of a ground and surface water withdrawal project (Application).

The Application was reviewed for continuation in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Wayne County Planning Department has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on May 8, 2024.

A. DESCRIPTION

1. Purpose. The purpose of this project is to renew the approval of an existing supply of groundwater and surface water to the docket holder's Pleasant Mount Fish Cultural Station from a surface water intake on the West Branch Lackawaxen River (WBLR) and existing Wells 1, 2 and 3. There is an increase in surface water allocation from the WBLR intake from 43.92 million gallons per month (mgm) to 60.0 mgm. The groundwater allocation will remain at 21.39 mgm to provide supplemental flow to the hatchery year-round.

2. Location. The project wells are completed in the Catskill Formation and are located in the West Branch Lackawaxen River Watershed Mount Pleasant Township, Wayne County, Pennsylvania. The West Branch Lackawaxen River near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting High Quality (HQ) and Cold Water Fishes (CWF).

Specific location information has been withheld for security reasons.

3. Area Served. The project wells and surface water intake serve the Pleasant Mount Fish Cultural Station only. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in Section C. DECISION of this docket.

4. Design Criteria. The Pleasant Mount Fish Cultural Station supports the propagation of fish for the docket holder’s public recreational programs. The West Branch Lackawaxen River runs north to south, directly through the docket holder’s facility. Surface water is diverted from the WBLR to the hatchery through a surface water intake located 500-600 yards upstream of the hatchery. Surface water is used primarily for the rearing of warm/cool water fish species. Surface water is also utilized for rearing trout during the winter months once the water temperature decreases. The surface water intake has three valves that can divert up to approximately 1,500 gallons per minute (gpm) of surface water to the tanks, ponds, and raceways in the hatchery. The intake is gravity operated; no pumps are used to divert the surface water. Typically, during the winter months, usage is low, generally not exceeding 100 gpm. During the peak of summer when the hatchery is in full production, usage increases up to as much as 1,500 gpm. Surface water diversions from the WBLR are returned to the WBLR just downstream of the hatchery after excreta and unconsumed feed is removed by the operation’s waste treatment facilities. Surface water diversions are managed so as not to create low flow conditions in the WBLR. If necessary, the docket holder can supplement flow to the WBLR with releases from the Belmont Dam and Reservoir, which they own and operate upstream of the hatchery.

The average and maximum surface water demand for this project is 0.670 mgd and 1.935 mgd, respectively. The docket holder does not project an increase in water demand by the year 2034. The allocation of 60.0 mgm is sufficient to meet the future demands of the docket holder’s facility.

Water from the hatchery wells is used primarily for water temperature control of the diverted surface water. The wells are used to provide additional water supply, if needed, year-round. The average and maximum groundwater demand for this project is 0.360 mgd and 0.780 mgd, respectively. The docket holder does not project an increase in water demand by the year 2034. The current allocation of 21.39 million gallons per month (mgm) should be sufficient to meet the future demands of the docket holder’s facility.

5. Facilities. The existing project wells and surface water intake have the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
1	522	200’/8”	200	Prior to 1940
2	500	87’/8”	150	1977
3	500	47’/8”	180	1977

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (GPM)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
West Branch Lackawaxen River	West Branch Lackawaxen River	1,500	0.307	1978

All water service connections are metered.

All wells are metered.

The project wellheads are above the 100-year flood elevation.

6. **Other.** Wastewater is conveyed to the docket holder's sewage treatment facility most recently approved by DRBC Docket No. D-1977-088 CP on October 26, 1977. The PADEP issued NPDES Permit No. PA0044024 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

7. **Relationship to the Comprehensive Plan.** The project groundwater withdrawal project was included in the Comprehensive Plan via DRBC Docket No. D-1980-032 CP-1, issued on March 28, 1984. The project groundwater withdrawal was continued in the Comprehensive Plan, as described in Docket Nos. D-1980-032 CP RENEWAL and D-1980-032 CP RENEWAL-2 approved by the Commission on January 25, 1989 and January 27, 1999 respectively. The project surface water withdrawal was added to the Comprehensive Plan via Docket No. D-1980-032 CP-4 issued on December 4, 2013. Issuance of this docket will continue the groundwater withdrawal project in the Comprehensive Plan.

B. FINDINGS

The hatchery is getting ready to start operating Hatch House No. 1 for rearing disease-free brown trout broodstock. The docket holder will spawn 2-year-old fish and incubate roughly 750,000 eggs to provide to other hatcheries. Hatch House No. 1 was selected for this program due to it being completely isolated from any other fish production and will be able to have a bio secure water source with Well 1. These eggs will be provided to hatcheries that stock within the Lake Erie drainage and other inland waters that require infectious pancreatic necrosis (IPN) negative fish. This program will require Well 1 to remain in operation 365 days a year at approximately 200 gpm.

Wells 2 and 3 provide water to the docket holder's Hatch House No. 2 and their intensive culture unit (ICU) raceways. They now have yearling programs for our channel catfish and tiger muskellunge that occupy these areas along with yearling lake trout. The lake trout require a minimum of 120 gpm groundwater year-round and the other species need well water during the cold months to keep the units free of ice.

The hatchery is also planning on starting to raise fingerling rainbow and brown trout to provide cooperative nurseries. With all of these changes to Hatch House No. 2, Wells 2 and 3 will need to operate year-round.

Increases in biomass from moving to yearling programs for the tiger muskellunge and the channel catfish require more flow through the raceways to meet oxygen demands. This requires more surface water being diverted from the West Branch Lackawaxen River to meet these needs during the summer months and this is why the docket holder requested an increase in their surface water allocation. The same procedures will be practiced as in the past to prevent low flows in the stream between our intake and outflow 001. In the event the stream level is low, more water will be added via the valve at Belmont Lake.

1. Special Protection Waters

In 1992, the DRBC amended its *Water Quality Regulations (WQR)* by the addition of regulations for the protection of Special Protection Waters (SPW), designed to maintain the quality of interstate waters where existing quality is better than the established stream quality objectives. As the result of its initial classifications and subsequent amendments, the Commission has designated the entire non-tidal main stem Delaware River from Hancock, New York to Trenton, New Jersey as SPW. DRBC's SPW regulations apply within the designated reaches and their drainage area.

The wells and surface water intakes providing water supply to the docket holder are located within the drainage area to SPW. Sections 3.10.3A.2.e.1) and 2) of the *WQR* state that projects subject to review under Section 3.8 of the *Compact* that are located within the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the docket holder's service area which is also located within the drainage area of SPW.

Since this project involves the renewal of an approval for existing activities and does not entail additional construction or expansion of facilities or create new or increased non-point source loads, the NPSPCP requirement is not applicable at this time. Condition C.23. of this docket provides that at such time, if ever, as additions to the area served by the docket holder's withdrawals are proposed, the docket holder will be required to demonstrate compliance with an approved NPSPCP in accordance with DRBC's SPW regulations.

The project is designed to conform to the requirements of the *Water Code (WC)* and *Water Quality Regulations (WQR)* of the DRBC.

The docket holder estimates that the project withdrawals, used for the purpose of fish hatchery, result in a consumptive use of 10 percent of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

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.

C. DECISION

Effective on the approval date for Docket No. D-1980-032 CP-5 below, the project described in Docket No. D-1980-032 CP-4 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1980-032 CP-5; Docket No. D-1980-032 CP-4 is terminated and replaced by Docket No. D-1980-032 CP-5; and the project and the appurtenant facilities described in in Section A.4. (Design Criteria) and A.5. (Facilities) shall be continued in the Comprehensive Plan. The project and appurtenant facilities as described in Section A.4. (Design Criteria) and A.5. (Facilities) are approved subject to the following conditions, pursuant to Section 3.8 of the *Compact*:

Monitoring and Reporting

1. The docket holder shall continue to report to the PADEP all surface and groundwater sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).

2. The project withdrawals shall be metered by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within 5 percent of actual flow. Meters or other methods of measurement shall be subject to approval and inspection by the PADEP as to the type, method, installation, maintenance, calibration, reading and accuracy. A record of biweekly withdrawals shall be maintained, and monthly totals shall be reported to the PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

3. The docket holder shall implement to the satisfaction of the PADEP, a continuous program to encourage water conservation in all types of use within the facilities served by this docket approval. The docket holder will report to the PADEP, on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

Other Conditions

4. During any month, the total diversion of surface water shall not exceed 60.0 million gallons. During any month, the combined withdrawal from all the wells shall not exceed 21.39 mgm. No source shall be pumped/diverted above the maximum instantaneous rate and monthly allocation as indicated below:

SOURCE NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)
1	200	3.72
2	250	10.85
3	180	7.13
Surface Water Intake	1,500	60.0

* Based on a 24-Hour Average

5. In accordance with 18 C.F.R. 401.8. of the Commission's *Rules of Practice and Procedure (RPP)*, if at any future time the Project is changed substantially from the Project as described in this docket, it will be deemed to constitute a new and different project for the purposes of Article 11 of the *Delaware River Basin Compact* and will require Commission amendment of the Comprehensive Plan. In accordance with the same section of the *RPP*, whenever a change to the Project is made, the sponsor must advise the Executive Director, who will determine whether the change is deemed substantial for purposes of this provision.

6. Section 2.3.10 of the Commission's *Rules of Practice and Procedure* (18 C.F.R. 401.41), limiting the Commission's approval to three years in the absence of an expenditure of substantial funds by the project sponsor in reliance on the approval, is hereby waived for good cause shown in accordance with Section 2.9.3 (18 C.F.R. 401.123) of the same regulations. This approval shall expire on the expiration date set forth below unless prior thereto the docket holder has applied to the Commission to renew or extend this approval.

7. The docket holder is responsible for timely submittal to the DRBC of a docket renewal application on the appropriate application form including the appropriate docket application filing fee (see 18 C.F.R. 401.43) at least 6 months in advance of the docket expiration date set forth below. The docket holder will be subject to late filed renewal surcharges in the event of untimely submittal of its renewal application whether DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. If 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, the terms and conditions of the current docket will remain fully effective and enforceable pending the grant or denial of the application for docket approval.

8. The wells and surface water intake and operational records shall be available at all times for inspection by the DRBC.

9. The wells and surface water intake shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.

10. The wells shall be equipped, where possible, with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes as repairs or modifications are made at each existing well so that water levels may be measured under all conditions.

11. Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

12. No water 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).

13. The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

14. No new water service connections shall be made to premises connected to sewerage systems which are not in compliance with all applicable effluent limits contained in State permits and the *Water Quality Regulations* of the Commission.

15. 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.

16. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

17. The docket holder shall be subject to applicable DRBC regulatory program fees, in accordance with duly adopted DRBC resolutions and/or regulations. (see 18 CFR 401.43).

18. This approval is transferable by request to the DRBC Executive Director provided that the project purpose and area served approved by the Commission in this docket will not be materially altered because of the change in project ownership. The request shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 CFR 401.43).

19. The docket holder shall request a name change of the entity to which this approval is issued if the name of the entity to which this approval is issued changes its name. The request for name change shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 C.F.R. 401.43).

20. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder to ensure the proper control, use and management of the water resources of the Basin.

21. If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the docket holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the docket holder shall provide written notice to all potentially affected water users of the docket holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the docket holder's project withdrawal shall be repaired, replaced or mitigated at the docket holder's expense.** The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the docket holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement, or mitigation.

22. 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.

23. Prior to allowing connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a Non-Point Source Pollution Control Plan (NPSPCP) in accordance with Section 3.10.3.A.2.e or receive written confirmation from the Executive Director of the DRBC that the new service area complies with a DRBC approved NPSPCP.

24. 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.

BY THE COMMISSION

APPROVAL DATE: June 5, 2024

EXPIRATION DATE: June 5, 2034