

DOCKET NO. D-2009-016-4

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**Heidelberg Materials US Cement LLC
Non-Contact Cooling Water Discharge
Upper Nazareth Township, Northampton County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an application submitted to the Delaware River Basin Commission (DRBC or Commission) by Heidelberg Materials US Cement LLC (docket holder), on November 15, 2023 (Application), for renewal of the docket holder’s existing non-contact cooling water (NCCW) discharge from the docket holder’s manufacturing facility, formerly known as Lehigh Cement Company, LLC. The Pennsylvania Department of Environmental Protection (PADEP) issued National Pollutant Discharge Elimination System (NPDES) Permit No. PA0065421 for this discharge.

The application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on May 8, 2024.

A. DESCRIPTION

- Purpose.** The purpose of this docket is to renew approval of the docket holder’s existing 0.35 million gallons per day (mgd) discharge of NCCW.
- Location.** The Heidelberg US Cement manufacturing facility is located along Route 248 and Easton Road and exists within the boundaries of Lower Nazareth Township, Upper Nazareth Township, and the Borough of Nazareth in Northampton County, Pennsylvania. The NCCW discharge will continue to be discharged to an unnamed tributary (UNT) to Shoeneck Creek at River Mile 184.0 – 5.85 – 4.1 – 0.15 (Delaware River – Bushkill Creek – Shoeneck Creek – UNT Shoeneck Creek) via Outfall No. 002, within the drainage area of the Lower Delaware Special Protection Waters (SPW).

The location of the NCCW outfall in the Bushkill Creek Watershed is as follows:

| OUTFALL NO. | LATITUDE (N) | LONGITUDE (W) |
|--------------------|---------------------|----------------------|
| 002 | 40° 43’ 43” | 75° 17’ 34” |

3. **Area Served.** The docket holder's manufacturing plant will continue to operate and handle the on-site NCCW, used for the manufacturing process at the plant located in Northampton, Pennsylvania. For the purpose of defining the Area Served, the Type of Discharge and the Service Area sections from the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in Section C. DECISION of this docket.

4. **Design Criteria.** The docket holder's manufacturing facility will continue to discharge up to 0.35 mgd of NCCW and stormwater via Outfall No. 002. The discharge of up to 0.35 mgd was determined based on the facility's maximum monthly discharge rate using its 2012-2013 discharge data.

5. **Facilities.** The docket holder's manufacturing facility has two internal monitoring points (IMP). IMP No. 101 monitors NCCW from the facility's roll press operation; IMP No. 202 monitors NCCW from the facility's cement coolers, Outfall No. 002 discharges NCCW from the facility's settling basins consisting of flow from the internal monitoring points. NCCW is sourced from on-site deep wells #1, #2 and #3.

Sanitary wastewater from the manufacturing facility is discharged to the Nazareth Borough Municipal Authority's public sewer system. The Nazareth Borough Municipal Authority's WWTP and related discharge were approved by the Commission on March 3, 2010, via Docket No. D-2002-038 CP-2.

On-site sludge is rarely produced, and when it is, it is transferred back to the kilns for the manufacturing process.

The docket holder does not operate a treatment facility and therefore emergency power and remote alarms are not required to be installed, nor is an emergency management plan (EMP) necessary.

The project facilities are not located in the 100-year floodplain.

6. **Water Withdrawals.** The potable water supply in the project service area is provided by the Pennsylvania American Water Company (PAWC). The withdrawal by PAWC was approved on January 13, 1988 via Docket No. D-1977-074 CP.

7. **NPDES Permit / DRBC Effluent Requirements.** NPDES Permit No. PA0065421 issued by the PADEP includes final effluent limitations for the project discharge to surface waters classified by the PADEP as supporting migratory fishes (MF) and warm water fishes (WWF). EFFLUENT TABLE C-1 included in Section C. DECISION condition C.1. of this docket, contains effluent requirements for DRBC parameters that must be met as a condition of this approval. NPDES Permit No. PA0065421 effluent requirements for Outfall No. 002 are based on an effluent discharge rate of 0.058 mgd, which was the maximum monthly flow from Outfall No. 002 based on 2018 discharge monitoring report data.

B. FINDINGS

The docket holder applied to renew approval of their existing 0.35 mgd NCCW discharge.

1. Special Protection Waters

In 1992, the DRBC adopted SPW requirements, as part of the DRBC *Water Quality Regulations (WQR)*, designed to protect existing 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.

On July 16, 2008, the DRBC approved amendments to its *Water Quality Regulations (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.

The docket holder's NCCW discharges to the drainage area to the Lower Delaware SPW. The docket holder's WWTP discharge is required to comply with the SPW requirements, as outlined in Article 3.10.3A.2. of the *WQR*.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* states that projects subject to review under Section 3.8 of the Compact that are located in 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. The service area of the docket holder is located in the drainage area to the SPW. Since this project does not entail additional construction or expansion of facilities and there are no new or increased non-point source loads associated with this approval, the NPSPCP requirement is not applicable at this time. Accordingly, Section C. DECISION condition C.3 has been included in this docket.

2. Other

Near the docket holder's NCCW discharge, the UNT to Shoeneck Creek has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 0.65 mgd (1.2 cfs). The ratio of this low flow to the hydraulic design wastewater discharge rate from the 0.35 mgd NCCW discharge is 1.9 to 1.

The nearest surface water intake of record for public water supply is located on the Delaware River approximately 57 River Miles downstream of the docket holder's NCCW and is operated by the Pennsylvania American Water Company.

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 effluent limits in the NPDES Permit conform with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge that meets the effluent requirements as set forth in the Commission's *Water Quality Regulations (WQR)*.

C. DECISION

Effective on the approval date for Docket No. D-2009-016-4 below, the project described in Docket No. D-2009-016-3 is terminated and replaced by Docket No. D-2009-016-4. The project and appurtenant facilities as described in Section A of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

Monitoring and Reporting

1. The docket holder shall comply with the requirements contained in the EFFLUENT TABLES below. The docket holder shall submit the required monitoring results electronically to the DRBC Project Review Section via email aemr@drbc.gov on the **Annual Effluent Monitoring Report Form** located at this web address: <https://www.nj.gov/drbc/programs/project/docket-app-info.html#3>. 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. The following average monthly effluent limits are among those listed in the NPDES Permit and meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE C-1: DRBC Parameters Included in NPDES Permit

| OUTFALL 002 (Discharge to UNT Shoeneck Creek) | | |
|--|---------------------|-----------------------------|
| PARAMETER | LIMIT | MONITORING |
| pH (Standard Units) | 6 to 9 at all times | As required by NPDES Permit |
| Total Suspended Solids | 50 mg/l | As required by NPDES Permit |
| Total Dissolved Solids* | 1,000 mg/l | As required by NPDES Permit |
| Temperature | 110 ° F (Max) | As required by NPDES Permit |
| Dissolved Oxygen | Monitor & Report | As required by NPDES Permit |
| CBOD ₅ (at 20° C) | Monitor & Report | As required by NPDES Permit |
| Ammonia Nitrogen | Monitor & Report | As required by NPDES Permit |
| Total Nitrogen | Monitor & Report | As required by NPDES Permit |
| Nitrate as N | Monitor & Report | As required by NPDES Permit |
| Total Phosphorus | Monitor & Report | As required by NPDES Permit |

* See DECISION Condition C.5

Other Conditions

2. 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 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.
3. Prior to the docket holder initiating any substantial alterations or additions to the existing WWTP as defined in Section 3.10.3A2.a.16) of the Commission's *WQR*, an application must be submitted and approved by the Commission. Such an application shall be submitted prior to final design to ensure that the Commission can provide the docket holder with draft effluent limitations for SPW specific parameters as guidance for design as to not require duplication of work or cause a substantial expenditure of public funds without Commission approval. The docket holder is encouraged to contact the Commission staff during the planning stages to identify the potential effluent limitations required to meet the no measurable change parameters under SPW.
4. 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*.
5. The docket holder may request in writing, for approval from the Executive Director for 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.

6. Section 2.3.10 of the Commission's *Rules of Practice and Procedure (RPP)* (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 facility and operational records shall be available at all times for inspection by the DRBC.

9. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR*.

10. 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.

11. 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.

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

13. 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).

14. 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, to ensure proper control, use and management of the water resources of the Basin.

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

16. 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 C.F.R. 401.43).

17. 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).

18. 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.

19. 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 (RPP)*. 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 30, 2029