

This DRAFT Docket has been prepared for the purposes of the scheduled public hearing and may be substantially modified as a result of the public hearing process prior to Commission action.

~~7/23/2024 10:35 AM~~ ~~7/12/2024 12:31 PM~~ RP

DOCKET NO. D-1983-018-3

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**Nestle Purina PetCare Company
Industrial Wastewater Treatment Plant
South Whitehall Township, Lehigh County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an application submitted to the Delaware River Basin Commission (DRBC or Commission) on November 6, 2023 (Application), for approval of the docket holder to construct a new industrial wastewater treatment plant (IWTP) to replace the existing IWTP and its discharge. Discharge from the docket holder's IWTP is authorized pursuant to the Pennsylvania Department of Environmental Protection (PADEP) National Pollutant Discharge Elimination System (NPDES) Permit No. PA0014681. The PADEP issued Water Quality Management Permit No. 3915201 A-1 for this proposed facility that will replace the existing facility.

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 August 7, 2024.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to approve a new IWTP that will be constructed to replace the existing IWTP. The annual average flow will be increased from 0.53 million gallons per day (mgd) to 1.08 mgd. Despite the increased flow, the docket holder will hold the loads approved in the previous docket. This docket also approves the construction of new discharge Outfall 005 on Jordan Creek.

2. **Location.** The docket holder's IWTP is located at Pope Road in South Whitehall Township, Lehigh County, Pennsylvania. The IWTP will continue to discharge treated effluent to an unnamed tributary of Jordan Creek at River Mile 183.66 - 16.25 - 0.67 - 11.16 - 0.5 (Delaware River – Lehigh River – Little Lehigh Creek – Jordan Creek - UNT) via Outfall No. 001 in the drainage area to the Lower Delaware Special Protection Waters (SPW).

After construction, the IWTP will discharge treated effluent directly to Jordan Creek, at River Mile 183.66 – 16.25 – 0.67 – 11.16 (Delaware River – Lehigh River – Little Lehigh Creek – Jordan Creek) via Outfall 005 in the drainage area to the Lower Delaware SPW.

The current location of the IWTP outfall in the Lehigh River Watershed is as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	40° 37' 1.89"	75° 34' 26.06"

The location of the proposed IWTP outfall in the Lehigh River Watershed is as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
005	40° 37' 21.8"	75° 34' 32.2"

3. **Area Served.** The docket holder's IWTP will continue to serve the docket holder's pet food manufacturing plant in South Whitehall Township located in Lehigh County, 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 0.53 mgd IWTP utilizes an activated sludge treatment process with chlorine and ultraviolet disinfection units. The facility's flow has increased steadily overtime. The docket holder proposed a re-rate in the facility's discharge rate due to the need to increase the amount of cooling water needed in operation during the summer months, and for the need to accommodate a greater temperature variability for "can" cooling water operations. Can cooling water operations do not show high pollutant loads, therefore, the discharge rate of 0.53 mgd is still applicable as a basis for the facility's effluent limitations.

The facility treats sources from domestic wastewater, softener regeneration backwash, boiler cooldown, contact cooking water, and the plant's floor drainage. Cooling water is conveyed to Lagoon 2 for storage and fire protection. Effluent from Lagoon 2 is pumped with the secondary plant effluent for filtration and disinfection.

5. **Facilities.** The IWTP consists of primary and secondary treatment processes. The primary treatment process consists of an underground surge lift station, an influent lift station, 2 rotary drum screens, 2 flow equalization tanks, with the use of 2 Gas-Energy mixers (GEM) and dissolved air flotation (DAF) units.

The facility's secondary treatment process receives influent from a secondary lift station and the process consists of an activated sludge treatment process. Lagoon 1-A (1.5-million-gallon capacity) receives flow from the lift station and is aerated by 3 blowers and 5 mixers. Effluent from Lagoon 1-A is pumped to a clarifier with thickening polymer. Effluent is combined with cooling water from Lagoon 2 and passed through a sand filtration unit to UV and chlorination/de-chlorination disinfection units. Sand filtration backwash and clarifier underflow is returned to Lagoon 1-A.

The proposed facilities will include an equalization tank, an anaerobic tank, an anoxic tank, two (2) aeration tanks, a post-anoxic tank, and a deaeration tank. A two-train membrane bioreactor with tanks and a filtrate tank, a microfiltration process for cooling water, two (2) chlorine contact tanks with sodium hypochlorite, reverse osmosis treatment unit, and a new outfall structure on the Jordan Creek will also be installed.

The docket holder's IWTP discharges to waters classified as SPW and is required to have available standby power unless it can be shown that a proposed discharge can be interrupted for an extended period with no threat to the water quality of SPW. The existing IWTP does not have standby power since power failure would result in the ceasing of operations at the IWTP due to its numerous pumping stations. Operations at the facility are not anticipated to change and therefore the docket holder has requested that they not have to install an emergency power source as part of the IWTP modifications. In the event of power loss, the facility would cease operations; therefore, the docket holder is not required to install a standby power source.

The docket holder's IWTP is not staffed 24 hours per day and shall have a remote alarm system that continuously monitors plant operations in accordance with the Commission's SPW requirements. The existing IWTP has a remote alarm system installed that continuously monitors plant operations.

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

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

Wasted sludge will continue to be hauled off-site for disposal in accordance with the NPDES Permit No. PA0014681.

6. Water Withdrawals. The potable water supply in the project service area is provided by the docket holder's groundwater system. The docket holder's water withdrawal is described in detail in Docket No. D-1984-002-6, which was approved on March 15, 2017.

7. NPDES Permit / DRBC Effluent Requirements. NPDES Permit No. PA0014681 includes effluent limitations for the existing project discharge at Outfall 001 (which apply before construction of the IWTP upgrades is completed) to surface waters classified by the PADEP as supporting high-quality cold-water fishes (HQ-CWF) and migratory fishes (MF). Upon completion of the proposed IWTP, NPDES Permit No. PA0014681 includes effluent limitations for the project discharge at Outfall 005 to surface waters classified by the PADEP as supporting

trout stocking fishes (TSF) and migratory fishes (MF). EFFLUENT TABLES C-1, C-2, and C-3, included in Section C. DECISION condition C.1. of this docket, contain effluent requirements for DRBC parameters that must be met as a condition of this approval. Effluent requirements for Outfall No. 001 are based on a discharge rate of 0.53 mgd and effluent requirements for the new Outfall 005 are based on discharge rates of 1.08 mgd and 1.5 mgd post construction.

B. FINDINGS

The docket holder applied to construct a new IWTP to replace their existing IWTP. The annual average flow will be increased from 0.53 million gallons per day (mgd) to 1.08 mgd. Despite the increased flow, the docket holder will hold the loads approved in the previous docket. This docket also approves the construction of new discharge Outfall 005 on Jordan Creek.

On November 9, 2021, PADEP provided Preliminary Effluent Limitations (PELs) for a proposed increased monthly average discharge flow total of 1.08 MGD for discharge to the unnamed tributary of Jordan Creek, a High Quality/Cold Water and Migratory Fish receiving stream. The docket holder determined that the temperature PEL could not be achieved without the installation of chillers to cool the effluent discharge flow to be compliant with the effluent limitations. Due to the anticipated high capital cost and energy usage associated with the chillers, the permittee evaluated an IWTP discharge directly to the Jordan Creek, a Trout Stocking and Migratory Fish receiving stream. The higher stream flow of Jordan Creek will provide greater mixing with the IWTP discharge. On April 8, 2022, DEP provided PELs for 1.08 MGD and 1.5 MGD discharges directly to Jordan Creek.

In conjunction with the construction of the upgraded IWTP, a new effluent pipeline and outfall structure (proposed Outfall 005) will be installed into Jordan Creek. Outfall 001 will remain as a permitted outfall to the unnamed tributary to Jordan Creek until construction of the upgraded IWTP is completed and discharge is conveyed to Outfall 005. At that time, Outfall 001 will be taken out of service.

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 *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 IWTP discharges to the drainage area to the Lower Delaware SPW. The docket holder's IWTP 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 area served which is also located within the drainage area of SPW. The docket holder's area served is located in the drainage area to the SPW. Since this project entails construction and/or expansion of facilities, and there may be new or increased non-point source loads associated with this approval, the NPSPCP requirement is applicable at this time.

The docket holder, in consultation with the Lehigh County Conservation District (LCCD), is preparing an Erosion and Sediment Control Plan (ESCP) and a Post Construction Stormwater Management Plan (PCSMP). The ESCP and PCSMP and related documents will be submitted to LCCD and subsequently to PADEP for review. Upon LCCD and PADEP approval, a National Pollutant Discharge Elimination System (NPDES) Permit for Discharges Associated with Construction Activities will be issued by PADEP. Once approved, the ESCP and PCSMP and associated county and state approvals shall be submitted to the DRBC as required by Section C. DECISION condition 7.

As noted above in A.3, the docket holder's area served is located entirely in South Whitehall Township. This township has enacted and is actively implementing non-point source/stormwater control ordinances adopting Ordinance No. 724. Compliance with the South Whitehall Township Ordinance No. 724, adopted September 21, 2022, generally meets the requirements of Article 3.10.3.A.2.e. of the Commission's *WQR* for the Area Served as described in A.3. above. Prior to construction of any new developments in the Area Served not in compliance with this Ordinance, the docket holder shall 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.(see Section C. DECISION condition 26.).

2. DRBC Settlement Agreement

As the docket holder was unable to comply with the effluent limitations for Nitrate-Nitrite, Ammonia Nitrogen, Total Nitrogen, Total Phosphorus (TP), and Total Suspended Solids (TSS) included in the previously approved docket, D-1983-018-2 and incorporated into Section C. DECISION Effluent Table C.1 of this docket, the Commission and docket holder entered into a settlement agreement on September 13, 2018 (the Agreement), whereby both parties accepted a plan for the docket holder to achieve compliance through modifications to the docket holder's IWTP. The Agreement included the docket holder's commitment to have the facility achieve compliance with the Commission's effluent limitations in Docket No. D-1983-018-2 or in any renewed or amended version of that docket by October 31, 2021.

Due to the unforeseen impact of the COVID-19 pandemic, which limited coordination of engineering and design work and caused equipment shortages, and delays associated with designing the new outfall and securing easements, the Agreement was amended on September 9, 2021, and again on September 7, 2023. The last amendment extends the schedule for the docket holder to achieve compliance with the Commission's effluent limits included in Section C. DECISION Effluent Table C-1 until December 31, 2027.

3. Total Dissolved Solids (TDS)

The Commission's basin-wide TDS effluent limit is 1,000 mg/l (Section 3.10.4.D.2. of the Commission's *WQR*). The Commission's basin-wide in-stream TDS criteria is that 1) the receiving stream's resultant TDS concentration be less than 133% of the background (Section 3.10.3.B.1.b. of the Commission's *WQR*), and 2) the receiving stream's resultant TDS concentration be less than 500 mg/l (Section 3.10.3.B.1.c. of the Commission's *WQR*).

The 133% of the background TDS requirement is for the protection of aquatic life. The 500 mg/l TDS requirement is to protect the use of the receiving stream as a drinking water source. The EPA's Safe Drinking Water Act's secondary standard for TDS is 500 mg/l.

Docket No. D-83-18 approved a 1,200 mg/l TDS effluent limit on September 14, 1983. As part of the Application the docket holder submitted a request for a continuance of the TDS variance for 1,200 mg/l. Since the increase in flow from cooling water is determined to contribute minimal TDS loading to the combined effluent, Commission staff recommend the continued approval of the TDS average monthly variance of 1,200 mg/l.

The determined TDS variance is limited and may be reduced to the basin-wide effluent limit of 1,000 mg/l or less in future DRBC approvals for this facility.

4. Other

At the IWTP direct discharge location to Jordan Creek has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 3.52 mgd (6.55 cfs). The ratio of this low flow to the proposed monthly effluent discharge rate from the 1.08 mgd IWTP is 3.26 to 1 (3.52 mgd/1.08 mgd).

The nearest surface water intake of record for public water supply is located on the Delaware River approximately 56 River Miles downstream of the docket holder's IWTP and is operated by North Penn Water Authority.

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-1983-018-3 below, the project described in Docket No. D-1983-018-2 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1983-018-3; Docket No. D-1983-018-2 is terminated and replaced by Docket No. D-1983-018-3; and the project and the appurtenant facilities described in Section A "DESCRIPTION" of this docket shall be included in the Comprehensive Plan. 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 Pre-Construction

OUTFALL 001 (Pre-Construction Discharging to UNT to Jordan Creek)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids*	25 mg/l	As required by NPDES Permit
Dissolved Oxygen	6.0 Minimum	As required by NPDES Permit
CBOD ₅ (at 20°C)	85% Minimum Removal	As required by NPDES Permit
Ammonia Nitrogen(5-1 to 10-31) (11-1 to 4-30)	4 mg/l 12 mg/l	As required by NPDES Permit
Ammonia Nitrogen(5-1 to 10-31) (11-1 to 4-30)	6.06 lbs/day 18.18 lbs/day	As required by NPDES Permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg.	As required by NPDES Permit
Total Dissolved Solids*	1,200 mg/l *	As required by NPDES Permit
CBOD ₅ (at 20°C) Influent	Monitor & Report	As required by NPDES Permit
CBOD ₅ (at 20°C) (11-1 to 4-30) (5-1 to 10-31)	30 mg/l 20 mg/l	As required by NPDES Permit
TSS** (5-1 to 9-	42.3 lbs/day	As required by NPDES Permit

OUTFALL 001 (Pre-Construction Discharging to UNT to Jordan Creek)		
PARAMETER	LIMIT	MONITORING
30)		
Nitrate-Nitrite as N** (5-1 to 9-30) (10-1 to 4-30)	67.38 lbs/day 202.14 lbs/day	As required by NPDES Permit
Total Nitrogen** (5-1 to 9-30) (10-1 to 4-30)	80.86 lbs/day 242.6 lbs/day	As required by NPDES Permit
Phosphorous** (5-1 to 9-30) (10-1 to 4-30)	21.78 lbs/day 43.56 lbs/day	As required by NPDES Permit

* See DECISION Condition C.10.

** Subject to DRBC Settlement Agreement discussed in Section B.2. of this Docket.

EFFLUENT TABLE C-2: DRBC Parameters Included in the NPDES Permit Post-Construction

OUTFALL 005 (Discharging to Jordan Creek Post-Construction)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids*	30 mg/l	As required by NPDES Permit
CBOD ₅ (at 20°C)	25 mg/l (85% Minimum Removal)	As required by NPDES Permit
Ammonia Nitrogen(5-1 to 10-31 (11-1 to 4-30)	6.06 lbs/day (11.47 mg/l) 18.18 lbs/day	As required by NPDES Permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg.	As required by NPDES Permit
Total Dissolved Solids*	1,200 mg/l *	As required by NPDES Permit
CBOD ₅ (at 20°C) Influent	Monitor & Report	As required by NPDES Permit
TSS (5-1 to 9-30)	30 mg/l	As required by NPDES Permit
Nitrate-Nitrite as N (5-1 to 9-30) (10-1 to 4-30)	67.38 lbs/day 202.14 lbs/day	As required by NPDES Permit
Total Nitrogen (5-1 to 9-30) (10-1 to 4-30)	80.86 lbs/day 242.6 lbs/day	As required by NPDES Permit
Phosphorous (5-1 to 9-30) (10-1 to 4-30)	21.78 lbs/day 43.56 lbs/day	As required by NPDES Permit

* See DECISION Condition C.10.

EFFLUENT TABLE C-3: DRBC Parameters Included in the NPDES Permit Post-Construction to Increase in Flow

OUTFALL 005 (Discharging to Jordan Creek Post-Construction to Increase in Flow)		
PARAMETER	LIMIT	MONITORING
Ammonia Nitrogen (5-1 to 10-31)	8.62 mg/l	As required by NPDES Permit

2. Within 10 days after the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date.
3. Within 30 days after 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; and (2) indicate the date on which the project was (or is to be) placed in operation.
4. Prior to project construction, the docket holder shall submit and have approved by the Executive Director of the DRBC, a NPSPCP in accordance with Article 3.10.3A.2.e. of the Commission’s *WQR*.

Other Conditions

5. Sound practices of excavation, backfill and reseeded shall be followed to minimize erosion and deposition of sediment in streams.
6. 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.
7. Once approved, the Erosion and Sediment Control Plan (ESCP) and Post Construction Stormwater Management Plan (PCSMP) and associated county and state approvals shall be submitted to the DRBC.
8. Prior to the docket holder initiating any substantial alterations or additions to the existing IWTP or to the forthcoming upgrades to the IWTP that are approved by this Docket, 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.

9. 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*.

10. The docket holder may request permission from the Executive Director to perform specific conductance monitoring in lieu of TDS monitoring. The request shall be made in writing and shall include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow specific conductance monitoring in lieu of TDS monitoring.

11. 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.

12. 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.

13. The docket holder is permitted to treat and discharge wastewater as set forth in the Area Served Section of this docket, which incorporates by reference the Type of Discharge and Service Area sections of the docket holder's Application to the extent consistent with all other conditions of this section. Any expansion beyond that included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the Compact.

14. In accordance with the Commission's regulations at 18 C.F.R. Part 440, the docket holder is prohibited from discharging wastewater from high volume hydraulic fracturing ("HVHF") or HVHF-related activities to waters or land within the Basin. The docket holder is further prohibited from discharging hydraulic fracturing wastewater, whether treated or untreated, from sources within or outside the Basin, without obtaining the Commission's prior review and express approval in the form of a revised docket. Violation of this or any condition of this docket

approval may result in enforcement, including the risk of financial penalties, pursuant to Section 14.17 of the Delaware River Basin Compact and Section 2.7.8 (18 CFR 401.98) of the Commission's Rules of Practice and Procedure.

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

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

17. 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.

18. 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.

19. 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.

20. 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).

21. 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.

22. 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).

23. 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).

24. 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).

25. 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.

26. Prior to construction of any new developments in the Area Served not in compliance to with the Ordinance described in Section B.1. above, the docket holder shall 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.

27. 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:

EXPIRATION DATE: November 30, 2029

DRAFT