

DOCKET NO. D-1967-196-4

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

Befesa Zinc US Inc.

**Palmerton East Facility Non-Contact Cooling Water Discharge
Palmerton Borough, Carbon County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an application submitted to the Delaware River Basin Commission (DRBC or Commission) on January 4, 2021 (Application), for renewal of the docket holder's existing Palmerton facility's discharge of Non-Contact Cooling Water (NCCW) . National Pollutant Discharge Elimination System (NPDES) Permit No. PA for this discharge was issued by the Pennsylvania Department of Environmental Protection (PADEP).

The application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Regional Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on August 10, 2022.

A. DESCRIPTION

- Purpose.** The purpose of this docket is to renew approval of the docket holder's existing discharges of 0.15 million gallons per day (mgd) and 0.432 mgd of NCCW from its Palmerton facility at two separate outfalls. This docket also recognizes the transfer in ownership of the plant from the Horsehead Corporation to Befesa Zinc US Inc.
- Location.** The docket holder's Palmerton facility is located at Delaware Avenue in Palmerton Borough, Carbon County, Pennsylvania. The facility will continue to discharge NCCW to Aquashicola Creek, at River Mile 183.6 – 36.3 – 1.0 (Delaware River – Lehigh River – Aquashicola Creek) and is located in the drainage area to the Lower Delaware Special Protection Waters (SPW).

The Palmerton facility outfalls are located in the Lehigh River Watershed as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
004	40° 48' 40"	75° 35' 20"
005	40° 48' 30"	75° 35' 30"

3. **Area Served.** The docket holder's facility will continue to serve its on-site dust processing facility for its zinc processing plant located in Carbon County, Pennsylvania. For the purpose of defining the Area Served, Section B (Type of Discharge) and D (Service Area) of the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

4. **Design Criteria.** The docket holder's Palmerton East facility discharges up to 0.15 mgd and 0.432 mgd of NCCW and stormwater from Outfalls Nos. 004 and 005, respectively. NCCW is generated by its Electric Arc Furnace (EAF) dust processing facilities. The facility utilizes settlement and chemical pH adjustment prior to discharge.

5. **Facilities.** The surface water runoff and cooling water used for Kiln Nos. 1, 2, 5 and 6 are directed to a sump, where sediment is removed and pH is adjusted by adding sulfuric acid, if necessary, then is discharged from Outfall No. 004.

Stormwater collected from several surface drains on the property and off-site, mountain and cinder bank runoff from diversion trench No. 005, and compressor cooling water from EAF dust processing and the metals powder production process is discharged from Outfall No. 005.

The Palmerton East Facility does not have a generator available for emergency power supply, however, since no on-site treatment processes rely on power for operation, emergency power and remote alarm systems are not required.

The docket holder has prepared and implemented an emergency management plan (EMP) for the existing Palmerton East facility 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.

6. **Water Withdrawals.** The potable water supply in the facility's project service area is provided by Palmerton Borough Municipal Authority. The docket holder's water withdrawal is described in detail in Docket No. D-1981-024 CP-8, which was approved on March 3, 2010.

7. **NPDES Permit / DRBC Effluent Requirements.** NPDES Permit No. PA0064378 issued by the PADEP includes final effluent limitations for the project discharge to surface waters classified by the PADEP as supporting trout stocking (TSF) and migratory fishes (MF). EFFLUENT TABLES C-1, C-2, C-3 & C-4 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 Nos. 004 and 005 are based on discharge rates of 0.15 mgd and 0.432 mgd, respectively.

B. FINDINGS

The docket holder applied to renew approval of their existing Palmerton East facility and its discharges of NCCW. This docket also recognizes the transfer in ownership of the plant from the Horsehead Corporation to Befasa Zinc US Inc.

1. Special Protection Waters

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. (Lower SPW)

The docket holder's WWTP 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 and/or expansion of facilities and service area 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, DECISION Conditions C.3 and C.4 has been included in this docket.

2. Other

Near the docket holder's NCCW discharges, the Aquashicola Creek has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 6.3 mgd (9.7 cfs). The ratio of this low flow to the facility's combined NCCW discharge rates of 0.582 mgd is 11 to 1.

The nearest surface water intake of record for public water supply downstream of the project discharge is for the Northampton Borough Municipal Authority, located approximately 12.5 river miles downstream on the Lehigh River.

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-1967-196-4 below; Docket No. D-1967-196-3 is terminated and replaced by Docket No. D-1967-196-4; and 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 004 (Discharging 0.15 mgd NCCW to Aquashicola Creek)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	20 mg/l	As required by NPDES Permit

The following monitoring requirements and average monthly effluent limits are for DRBC parameters not listed in the NPDES Permit.

EFFLUENT TABLE C-2: DRBC Parameters Not Included in NPDES Permit

OUTFALL 004 (Discharging 0.15 mgd NCCW to Aquashicola Creek)		
PARAMETER	LIMIT	MONITORING
Total Dissolved Solids*	1,000 mg/l *	Monthly
Temperature	110 °F (Max)	Monthly

* See DECISION Condition C.6

EFFLUENT TABLE C-3: DRBC Parameters Included in NPDES Permit

OUTFALL 005 (Discharging 0.432 mgd NCCW to Aquashicola Creek)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	20 mg/l	As required by NPDES Permit

The following monitoring requirements and average monthly effluent limits are for DRBC parameters not listed in the NPDES Permit.

EFFLUENT TABLE C-2: DRBC Parameters Not Included in NPDES Permit

OUTFALL 005 (Discharging 0.432 mgd NCCW to Aquashicola Creek)		
PARAMETER	LIMIT	MONITORING
Total Dissolved Solids*	1,000 mg/l *	Monthly
Temperature	110 °F (Max)	Monthly

* See DECISION Condition C.6

Other Conditions

2. 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.

3. 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.

4. 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.

5. 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*.

6. 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.

7. 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.

8. 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 CFR 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 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, 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.

9. 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 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.

10. 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.

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

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

13. 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.

- 14.** 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.
- 15.** 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.
- 16.** 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).
- 17.** 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.
- 18.** 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).
- 19.** 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).
- 20.** 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 CFR 401.43).
- 21.** 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.
- 22.** 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: September 8, 2022

EXPIRATION DATE: September 30, 2027