

DOCKET NO. D-1992-027-3

DELAWARE RIVER BASIN COMMISSION

**Bernville Corporation – Heidelberg Country Club
Surface Water Withdrawal**

Jefferson and North Heidelberg Townships, Berks County, Pennsylvania

PROCEEDINGS

This docket is issued in response to an Application submitted by Bernville Corporation to the Delaware River Basin Commission (DRBC or Commission) on May 11, 2015 for a renewal and approval of an existing allocation of surface water and review of a surface water withdrawal project (Application). This project was previously approved by the Commission on May 10, 2006.

The Application was reviewed for continuation and approval under Section 3.8 of the *Delaware River Basin Compact*. The Berks County Planning Commission has been notified of pending action on this permit. A public hearing on this project was held by the DRBC on February 10, 2016.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to renew the approval of an existing supply of surface water for irrigation of the docket holder's Heidelberg Country Club from an existing intake on the Tulpehocken Creek. The total allocation of surface water will remain 8.3 million gallons per month (mgm). Bernville Corporation is not requesting an increase in surface water withdrawal allocation from that contained in its prior approval.

2. **Location.** The project intake is located on the Tulpehocken Creek and is located in Tulpehocken Creek Watershed, in Jefferson Township, Berks County, Pennsylvania. Tulpehocken Creek near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting Cold Water Fishes (CWF) and Migratory Fishes (MF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The project withdrawals are only used to supply water to the docket holder's golf course irrigation system.

4. **Physical features.**

a. **Design criteria.** The project golf course is an 18-hole golf course located on 184 acres, of which 77 acres are irrigated, it consists of 27 acres of fairways and tees, 4 acres of

greens and 46 acres of other grounds. The potable water at the golf course's clubhouse is provided Reading Area Water Authority (RAWA).

The average and maximum demand is 0.15 million gallons per day (mgd) and 0.277 mgd, respectively. The docket holder does not expect an increase in the average or maximum daily demand over the next 10 years. The allocation of 8.3 mgm should be sufficient to meet the future demands of the Heidelberg Country Club irrigation system.

b. Facilities. The docket holder's existing surface water intake has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (MGD)	7Q10 FLOW AT INTAKE (CFS/MGD)	YEAR CONSTRUCTED
1	Tulpehocken Creek	0.96	16.5/ 10.6	1968

The Tulpehocken Creek intake is metered.

The irrigation system is presently not interconnected with any other distribution system.

c. Other. Wastewater is conveyed to the North Heidelberg Sewer Company sewage treatment facility most recently approved by DRBC Docket No. D-1994-001 on April 26, 1995. The PADEP issued its most recent NPDES Permit No. PA0033766 on May 1, 2009 for this treatment facility. A renewal application has been submitted for this facility and the project is currently administratively extended. The treatment facility has adequate capacity to receive wastewater from the proposed project.

B. FINDINGS

Pass-by Flow

The docket holder's Tulpehocken Creek surface water withdrawal will continue to be subject to passby flow requirements. The estimated contributing drainage area to Tulpehocken Creek above the Heidelberg Country Club surface water intake is approximately 70.5 square miles. The estimated seven-day low flow with a recurrence interval of 10 years (Q_{7-10}) at the point of withdrawal is 16.5 cubic feet per second (cfs) or 10.6 million gallons per day (mgd). These values are based on data available from the United States Geological Survey (USGS) Tulpehocken Creek Gaging Station No. 01470779 adjusted proportionally for the area of the basin for the period of record from 1955 to 2006. The project withdrawal must not cause the stream flow in Tulpehocken Creek to be less than 16.5 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that a minimum of 16.5 cfs passes by the intake. Withdrawals shall cease entirely if the 24-hour average flow as measured below the intake, less the withdrawal, is 16.5 cfs or less. Whenever the stream flow below the intakes is

less than 16.5 cfs, no withdrawal from the creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Tulpehocken Creek as measured below the intake is at least 16.92 cfs for at least a 24 hour period. The docket holder shall continue to monitor the pass-by requirement in accordance with Condition C.I.i. in this docket.

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

Bernville Corporation shall pay for surface water use in accordance with the provisions of *Administrative Manual Part III Basin Regulations – Water Charges*.

The DRBC estimates that the project withdrawals, used for the purpose of golf course irrigation, result in a consumptive use of 90 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

I. Effective on the approval date for Docket No. D-1992-027-3 below, Docket No. D-1992-027-2 is terminated and replaced by Docket No. D-1992-027-3.

II. The project as described in the Section A “Physical features” is 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 PADEP, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

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

c. The surface water intake shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

d. During any month, the total withdrawal from the surface water intake shall not exceed 8.3 mgm or 49.8 mgy (8.3 mgm x 6 months). The intake shall not be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

INTAKE NO.	INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MILLION GALLONS)
1	900	8.3

e. The docket holder shall pay for surface water use in accordance with the provisions of *Administrative Manual Part III Basin Regulations – Water Charges*.

f. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported annually by June 30, to the PADEP. Withdrawal records shall be available at any time to the Commission if requested by the Executive Director.

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

h. 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.

i. The project withdrawal must not cause the stream flow in Tulpehocken Creek to be less than 16.5 cfs at the point of taking and daily withdrawal rates shall be reduced as appropriate to ensure that a minimum of 16.5 cfs passes by the intake. Withdrawals shall cease entirely if the 24-hour average flow as measured below the intake, less the withdrawal, is 16.5 cfs or less. Whenever the stream flow below the intakes is less than 16.5 cfs, no withdrawal from the creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Tulpehocken Creek as measured below the intake is at least 16.92 cfs for at least a 24 hour period.

j. The docket holder shall incorporate and implement reasonable conservation practices and measures consistent with efficient utilization of water resources.

k. 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.

l. 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 permit. 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*.

m. 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.

n. 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 in order to insure the proper control, use and management of the water resources of the Basin.

o. 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 permit 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 permit holder shall provide written notice to all potentially affected water users of the permit holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the permit holder's project withdrawal shall be repaired, replaced or mitigated at the permit 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 permit holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement or mitigation.

p. 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.

q. For the duration of any drought emergency declared by either Pennsylvania or the Commission, water service or use by the docket holder pursuant to this approval shall be subject to the prohibition of those non-essential uses specified by the Governor of Pennsylvania, the Pennsylvania Emergency Management Council, PADEP, or the Commonwealth Drought Coordinator, to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

r. 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: March 16, 2016

EXPIRATION DATE: March 16, 2026