

DOCKET NO. D-1989-033 CP-4

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**Pennsylvania Utility Company
Groundwater Withdrawal
Lehman Township, Pike County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by Robert C. Ferri Environmental Management on behalf of Pennsylvania Utility Company (PAUC) to the Delaware River Basin Commission (DRBC or Commission) on December 7, 2015 (Application), for a renewal and approval of an existing allocation of groundwater and review of a groundwater withdrawal project. This docket was previously approved by the Commission on February 28, 2007. The project wells were reviewed under the Pennsylvania Safe Drinking Water Act for public water supply permits and approved by the Pennsylvania Department of Environmental Protection (PADEP) on April 7, 2004 (PADEP Permit No. 2520070).

The Application was reviewed for continuation in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Pike County Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on May 11, 2016.

A. DESCRIPTION

1. Purpose. The purpose of this project is to renew the approval of up to 21.01 million gallons per month (mgm) of water to the docket holder's public water supply distribution system from existing Wells 1, 2 and 3. PAUC is not requesting an increase in groundwater withdrawal allocation.

2. Location. The project wells are located in the Little Bushkill Watershed, within the drainage area to the Middle Delaware Special Protection Waters, in Lehman Township, Pike County, Pennsylvania. The Little Bushkill near the project site is designated by the PADEP as Exceptional Value (EV) and Migratory Fishes (MF). The project wells are completed in the Towamensing Member of the Catskill Formation.

Specific location information has been withheld for security reasons.

3. Area Served. The docket holder's water distribution system serves the PAUC service area in Lehman Township, Pike County, Pennsylvania as shown on a map entitled "Location Map", submitted with the Application. The service area includes private residences and resort

facilities in the areas locally referred to as the Glen at Tamiment, the Tamiment Resort and Conference Center property and adjacent properties including timeshare residences located in Eagle Point, Eagle Village and the Rizzo property. PAUC also provides water via a bulk service connection to the Mountain Laurel Center for Performing Arts. There are also approximately 2,500 undeveloped acres within the docket holder's service area that has a proposed mix of residential and commercial properties.

For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. Physical features.

a. Design criteria. PAUC system supplies water to an estimated population of 1,700 via 507 connections. The average and maximum groundwater demand for this project are 0.111 million gallons per day (mgd) and 0.326 mgd, respectively. The docket holder projects to serve a population of 5,250 via 1,500 connections within the next ten years. The projected average and maximum demand is estimated to be 0.332 mgd and 0.979 mgd, respectively. The allocation of 21.01 mgm should be sufficient to meet the future demands of the PAUC system.

b. Facilities. The existing project wells have the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
1	460	Unknown/ 8"	116	1945
2	500	108' / 8"	140	1972
3	420	50' / 8"	230	1988

All wells and water service connections are metered.

Prior to entering the distribution system, all groundwater is treated with chlorine for disinfection, pH adjustment and corrosion.

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

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

c. Other. Wastewater is conveyed to the PAUC sewage treatment facility most recently approved by DRBC Docket No. D-1975-093 CP-5 on March 16, 2016. The PADEP

issued its most recent NPDES Permit No. PA0037290 on January 28, 2011 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from this project.

d. **Cost.** There is no associated cost with this project.

e. **Relationship to the Comprehensive Plan.** PAUC Wells 1 and 2 were included in the Comprehensive Plan via DRBC Docket No. D-1988-020 CP issued on May 25, 1988. PAUC Well 3 was included in the Comprehensive Plan via DRBC Docket No. D-1989-033 CP issued on October 25, 1989. Dockets Nos. D-1989-033 CP-2 and D-1989-033 CP-3 continued the approval of the PAUC wells and were issued on July 20, 2005 and February 28, 2007, respectively. Issuance of this docket will continue the groundwater withdrawal project in the Comprehensive Plan.

B. **FINDINGS**

Special Protection Waters

In 1992, the DRBC adopted Special Protection Waters requirements, as part of the DRBC *Water Quality Regulations (WQR)*, designed to protect existing high 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 were 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* that provide increased protection for waters that the Commission classifies as Special Protection Waters. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for Special Protection Waters designation and clarity on definitions and terms were updated for the entire program.

Article 3.10.3A.2.e.1). and 2). of the Water Quality Regulations, Administrative Manual - Part III, states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of Special Protection Waters must submit for approval a Non-Point Source Pollution Control Plan 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 Special Protection Waters. The wells providing water supply to the PAUC are located within in the drainage area to the Special Protection Waters. Since this project does not entail additional construction and expansion of facilities or service areas and there aren't any new or increased non-point source loads associated with this approval, the non-point source pollution control plan requirement is not applicable at this time. Accordingly, Special Condition II.v has been included in the Decision section of this docket.

Water Audits for Public Water Supply Systems Serving Greater than 100,000 gpd

Section 2.1.8 of the Water Code states that it is the policy of the Commission to establish a standardized water audit methodology for owners of water supply systems serving the public to ensure accountability in the management of water resources. Voluntary Water Audits were encouraged for public water supply systems through December 31, 2011 (Section 2.1.8.B.). Effective January 1, 2012, the owners of each public water supply system are required to implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance (Section 2.1.8.C). Water audits shall be submitted annually to the Commission by March 31. PAUC submitted their most recent Water Audit on February 23, 2015.

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

The docket holder estimates that the project withdrawals, used for the purpose of public water supply, 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

- I. Effective on the approval date for Docket No. D-1989-033 CP-4 below:
 - a. The project described in Docket No. D-1989-033 CP-3 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1989-033 CP-4; and
 - b. Docket No. D-1989-033 CP-3 is rescinded and replaced by Docket No. D-1989-033 CP-4.
 - c. The project and the appurtenant facilities described in the Section entitled “Physical features” above shall be added to the Comprehensive Plan.
- II. The project as described in the Section entitled “Physical features” above 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. Within 60 days (August 15, 2016), the docket holder shall provide written confirmation to the Commission that it has registered with and will report to 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).

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

c. The wells 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 combined withdrawal from all well sources shall not exceed 21.01 mgm. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MGM)
1	116	5.01
2	140	6.06
3	230	9.94

e. The wells shall be equipped with a readily accessible capped port and drop pipe so that water levels may be measured under all conditions.

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 to the PADEP annually and 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. In accordance with DRBC Resolutions No. 87-6 (Revised) and No. 2009-1, the docket holder shall continue to implement to the satisfaction of the PADEP, the systematic program to monitor and control leakage within the water supply system. The program shall at a minimum include: periodic surveys to monitor leakage, enumerate non-revenue water and determine the current status of system infrastructure; recommendations to monitor and control leakage; and a schedule for the implementation of such recommendations. The docket holder shall proceed expeditiously to correct leakages and unnecessary usage identified by the program.

i. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the Water Code, the docket holder shall implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding guidance. Water audits shall be submitted annually to the Commission by March 31.

j. The docket holder shall implement to the satisfaction of the PADEP, the 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.

k. 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).

l. The docket holder shall implement its Water Conservation Plan as approved by PADEP, and shall report to the PADEP on actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

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

n. 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.

o. 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.

p. 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*.

q. 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.

r. 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.

s. 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.

t. 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.

u. 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 nonessential 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.

v. 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 is in compliance with a DRBC approved NPSPCP.

w. 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 15, 2016

EXPIRATION DATE: June 15, 2026