

DOCKET NO. D-2015-003-1

DELAWARE RIVER BASIN COMMISSION

**The Chemours Company FC, LLC
A Wholly Owned Subsidiary of E.I. du Pont Nemours and Company
Chemours Edge Moor Surface Water Withdrawal
New Castle County, Delaware**

PROCEEDINGS

This docket is issued in response to an Application submitted by Kleinfelder on behalf of The Chemours Company FC, LLC (Chemours), a wholly owned subsidiary of E.I. du Pont de Nemours and Company (DuPont) to the Delaware River Basin Commission (DRBC or Commission) on February 10, 2015 for review of an existing surface water withdrawal project and an allocation of surface water (Application). DuPont reorganized its Performance Chemicals business on February 1, 2015 and the Edge Moor facility became part of Chemours. DuPont expects to spin off Chemours so that Chemours will become a totally separate publicly traded company on or about July 1, 2015 that will continue to operate the Edge Moor facility. The surface water withdrawal was approved by the Delaware Department of Natural Resources and Environmental Control (DNREC) on January 24, 1990 (Industrial Water Allocation Permit No. 89-0019).

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The New Castle County Department of Land Use and Planning has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on June 9, 2015.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to approve a withdrawal of up to 345 million gallons per month (mgm) of surface water from existing Intake No. 89-0019 for industrial processes and cooling purposes at the existing Edge Moor facility. The docket also approves a docket transfer upon the transfer of ownership to Chemours, on or about July 1, 2015. Prior to this docket, the docket holder operated its surface water withdraw under DRBC Certificate of Entitlement No. 179. The Certificate of Entitlement will terminate when Chemours ceases to be a wholly-owned subsidiary of DuPont.

2. Location. The Edge Moor titanium dioxide processing facility is located between Hay Road and the Delaware River in Edge Moor, New Castle County, Delaware. The surface water intake is located in the Delaware River in DRBC Water Quality Zone 5. Specific location information has been withheld for security reasons.

3. Area Served. The surface water withdrawals are used for once through non-contact cooling and industrial processes at the docket holder’s Edge Moor facility. The service area is outlined on a map entitled “Figure 1: Location Map” submitted with the Application. 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. The current (2014) average and maximum daily surface water demand is 6.309 million gallons per day (mgd) and 9.012 mgd, respectively. In 2014, the average monthly withdrawal was approximately 200 mg. Currently, the facility is operating at less than 50 percent of its production capacity. The docket holder anticipates an increase in production under Chemours ownership and the 10-year average and maximum water demand is estimated to increase to 11.506 mgd and 14.400 mgd, respectively. The allocation of 345 mgm, requested by the docket holder should be sufficient to meet the future monthly demands of the facility.

Intake No. 89-0019 is located in the Delaware River. The intake structure contains two separate intakes each equipped with large debris grates and traveling screens. Water from the intake structure is pumped to the Edge Moor facility using two off shore pumps (Pump Nos. 4 and 5). Pump No. 4 is the standard supply pump and has a maximum rated pumping capacity of 6,000 gallons per minute (gpm). Pump No. 5 has a capacity of 10,000 gpm and is currently used only if Pump No. 4 is not in operation because of maintenance or repairs. Due to the hydraulic capacity of the system, both pumps are not operated simultaneously. The system also has three (3) onshore backup pumps each having a maximum pumping capacity of 2,500 gpm. These pumps are only used when both off shore pumps are not available for operation. The facility also maintains a 1,000 gpm capacity pump for fire suppression purposes. All of the onshore pumps utilize Intake No. 89-0019. At the plant, approximately 68 percent of the water withdrawn is used for non-contact cooling purposes. The remainder of the water withdrawn (approximately 32 percent) is used for industrial processes.

b. Facilities. The existing project intake has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY	7Q10 FLOW AT INTAKE (CFS)*	YEAR CONSTRUCTED
89-0019	Delaware River	10,000 gpm ⁽¹⁾ (14.4 mgd)	4,318 cfs (2,790 mgd)	1935

*CFS: cubic feet per second

(1) The total capacity listed is the hydraulic capacity of the water system and capacity of the largest installed pump.

Project withdrawals are estimated through a water balance using metered purchased water and discharge flows (Outfalls Nos. 001 and 003) and calculated consumptive losses.

Surface water is not treated prior to use.

The project intake is located in the 100-year floodplain.

The docket holder also has a 1.44 mgd capacity interconnection with United Water Delaware through which it regularly purchases an average of 1.33 mgd for industrial processes, cooling purposes, potable use and vehicle washing. United Water Delaware is described in detail in DRBC Docket No. D-1996-050 CP-2, approved on January 19, 2005.

c. Other. Once through non-contact cooling water is discharged back to the Delaware River via Outfall No. 003. Water used for industrial processes is treated at the docket holder's Edge Moor Industrial Wastewater Treatment Plant (IWTP) and discharged to the Delaware River via Outfall No. 001. The IWTP and its discharge as well as the non-contact cooling water discharge were most recently approved by DRBC Docket No. D-1971-086-4 on March 11, 2015. The DNREC issued its most recent Draft NPDES Permit No. DE000000051 on February 4, 2015 for this treatment facility. The treatment facility has adequate capacity to continue to receive wastewater from the project.

d. Cost. There are no construction costs associated with this renewal project.

B. FINDINGS

This docket approves a withdrawal of up to 345 million gallons per month (mgm) of surface water from existing Intake No. 89-0019 for non-contact cooling purposes and industrial processes at the existing Edge Moor titanium dioxide processing facility.

Transfer of Ownership

The Edge Moor facility became part of Chemours, a wholly owned subsidiary of DuPont on February 1, 2015. Chemours will become a total separate publicly traded company on or about July 1, 2015, and will continue to operate the Edge Moor facility. This docket shall remain in effect and continue to apply to the Chemours' operation of the Edge Moor facility upon Chemours assumption of ownership of the Edge Moor facility on or about July 1, 2015, at which time Chemours shall become the docket holder referred to herein. Chemours is required to notify the DRBC of the transfer of ownership of the facility within ten (10) days after the date of the transfer (see Condition C.I.f.).

DNREC Water Allocation Permit

DNREC issued Industrial Water Allocation Permit No. 89-0019 to DuPont on January 23, 1990, effective January 24, 1990. The Water Allocation Permit approved a 24-hour

allocation of 14.40 mg, a 30-day allocation of 345.0 mg and a 12-month allocation of 4,200.0 mg from Delaware River Intake. The DNREC water allocation is valid for a period of 30 years from date of issue, with review every five years. The DNREC Water Allocation Permit will expire on January 24, 2020.

Certificate of Entitlement and Surface Water Charges

DuPont was granted Certificate of Entitlement No. 179 (“Entitlement”) on July 15, 1976. The Entitlement approved a withdrawal of 802.239 mgm non-consumptive use and 16.372 mgm consumptive use, for a total withdrawal of 818.611 mgm. Entitlement No. 179 will terminate upon Chemours’ assumption of ownership of the Edge Moor facility which is scheduled on or about July 1, 2015. Thereafter, Chemours shall pay water supply charges to the Commission in accordance with Administrative Manual – Part III, Basin Regulations – Water Supply Charges. (see Condition C.I.g.).

Metering and Consumptive Use

The docket holder estimates its surface water withdrawals using flow meter data from the discharge outfalls and the purchased water interconnection. This alternative metering method is necessary due to frequent sediment fouling of the intake meters which results in inaccurate flow readings and increased maintenance issues. The discharge meters (Outfalls Nos. 001 and 003) are capable of measuring within 5 percent of actual flow and are calibrated annually. The withdrawn river water is consumed at the facility in two locations, at co-product and press cake operations and at the once through cooling tower. The docket holder calculates consumptive use at the facility by summing the consumptive use at these two locations and dividing by the total estimated surface water withdrawal. Based on 2014 average flows, the docket holder estimates a consumptive use of 2.9 percent of the total estimated surface water withdrawal. 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*.

Other

At the withdrawal location, the Delaware River is tidal. The Trenton low flow target is 2,500 cfs (1.62 billion gallons per day). The addition of the tidal tributaries upstream of the withdrawal location at their Q7-10 flow and the low flow Trenton target results in a low-flow of approximately 4,318 cfs (2.79 billion gallons per day) for the Delaware River at the withdrawal location.

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

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-2015-003-1 below, the project and appurtenant facilities as described in the Section A “Physical features” are 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 DNREC in its Water Allocation Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

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

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

d. Withdrawals from Intake No. 89-0019 shall not exceed the maximum instantaneous rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION
89-0019	10,000 gpm	345 mgm

e. The project withdrawals shall be estimated using the alternative metering method as described by the docket holder and shall continue to include the automatic continuous recording devices installed on the project discharge outfalls (Outfalls Nos. 001 and 003) that measure to within 5 percent of actual flows. Purchased water supply flows shall be obtained from invoices received from the water supply company. 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 reported to DNREC in accordance with the DNREC Water Allocation Permit and shall be available at any time to the Commission if requested by the Executive Director.

f. Chemours is required to notify the Executive Director of the transfer of ownership of the Edge Moor facility within ten (10) days after the date of the transfer. Upon transfer of ownership of the facility to Chemours, Chemours will become the docket holder referred to herein.

g. Entitlement No. 179 will terminate upon Chemours’ assumption of ownership of the Edge Moor facility which is scheduled on or about July 1, 2015. Thereafter, Chemours shall pay water supply charges to the Commission in accordance with Administrative Manual – Part III, Basin Regulations – Water Supply Charges.

h. The docket holder shall implement to the satisfaction of the DNREC, the continuous program to encourage water conservation in all types of use within the facilities served by this docket approval as required by the DNREC Water Allocation Permit. The docket holder will report to the DNREC on the actions taken pursuant to this program and the impact of those actions as requested by the DNREC.

i. The docket holder shall implement to the satisfaction of the DNREC, a drought or other water supply emergency plan as required by the DNREC Water Allocation Permit.

j. 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.

k. 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*.

l. 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 6 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.

m. 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.

n. 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.

o. For the duration of any drought emergency declared by either Delaware 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 Delaware, to

the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

p. 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 10, 2015

EXPIRATION DATE: June 10, 2025