

DOCKET NO. D-2000-009 CP-2

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**Whitehall Township Authority
Groundwater Withdrawal
Whitehall Township, Lehigh County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by Whitehall Township Authority to the Delaware River Basin Commission (DRBC or Commission) on June 3, 2013 for renewal of an allocation of groundwater and review of a groundwater water withdrawal project (Application). The most recent Public Water Supply Permit approving the operations of facilities were issued by the Department of Environmental Protection (PADEP) on June 29, 2010, December 8, 2010 and May 4, 2011 (Permit No.3390081).

The Application was reviewed for continued inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on June 10, 2014.

A. DESCRIPTION

1. Purpose. The purpose of this project is to renew the approval of an existing groundwater withdrawal of up to 57.38 million gallons per month (mgm) of water from 11 existing wells for use in the docket holder's existing public water supply system. The allocation is a reduction from the previous allocation of 91.2 mg/30 days approved in the previous docket.

2. Location. The project wells are completed in the carbonate aquifers of the Allentown and Epler Formations and are located in the Lehigh River Watershed in Whitehall Township, Lehigh County, Pennsylvania. The Lehigh River near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting Trout Stocking (TSF) and migratory Fishes (MF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The Whitehall Township Authority project wells serve the western and southern portions of Whitehall Township and the southeast corner of North Whitehall Township all in Lehigh County, Pennsylvania. The service area is outlined on a plan entitled “Service Area Map”, dated May 10, 2013 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 system currently serves water to approximately 13,611 persons on 2,438 domestic service connections and 447 commercial service connections and records an existing average and maximum water demand of 0.960 million gallons per day (mgd) and 1.095 mgd, respectively. Whitehall Township Authority projects the 10-year average and maximum water demand to increase to 1.483 mgd and 1.851 mgd, respectively. The allocation of 57.38 mgm should be sufficient to meet the future demands of the Whitehall Township Authority public water supply system.

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

WELL DESIGNATION	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY	YEAR DRILLED
Evergreen Park	200'	79' / 6"	50 gpm*	1954
Walnut Gardens No. 1	270'	unknown	50 gpm	1975
Walnut Gardens No. 2	440'	76' / 6"	50 gpm*	1961
Walnut Gardens No. 3	400'	40' / 8"	380 gpm	1985
Mickley Gardens No. 1	185'	40' / 6"	50 gpm*	1959
Mickley Gardens No. 2	185'	40' / 8"	300 gpm	1984
3960 No. 1	340'	60' / 8"	650 gpm**	1986
3960 No. 2	400'	165' / 8"	350 gpm**	1987
Malitsch	500'	153' / 8"	220 gpm	1991
Huber	555'	263' / 8"	220 gpm	1995
Lehnert Road	590'	237' / 8"	770 gpm	1998

* Emergency use only

**Off-line due to groundwater contamination

All wells and service connections are metered.

All well water is chlorinated prior to entering the distribution system.

The project wells are outside the 100-year floodplain.

The system has a 2.0 mgd capacity emergency interconnection with the City of Allentown through 2 metered interconnections.

c. **Other.** Wastewater is conveyed to the City of Allentown wastewater treatment plant most recently approved by DRBC Docket No. D-97-14 CP on August 6, 1997. The PADEP issued its most recent NPDES Permit No. PA0026000 on March 20, 2003 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

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

e. **Relationship to the Comprehensive Plan.** The project was previously included in the Comprehensive Plan by the Commission in Docket Nos. D-85-37 CP, D-86-14 CP, D-87-16 CP, D-87-16 (Revised), D-90-39 CP, D-92-28 CP, D-95-48 CP and D-2000-9 CP.

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 Whitehall Township Authority public water distribution system are located within in the drainage area to the Special Protection Waters. Each of the municipalities within the docket holder's service area as described above in A.3 "Area Served" (including Whitehall Township and North Whitehall Township) has adopted and is implementing the Bushkill Creek, Catasauqua Creek, Coplay Creek, Fry's Run, Hokendauqua Creek, Jordan Creek, Martins/Jacoby Creeks, Monocacy Creek, Nancy Run, Saucon Creek, Trout/Bertsch Creeks, Delaware River Subbasins and Lehigh River Subbasins Watershed Act 167 Stormwater Management Plan Water Quality Update, dated April 2006 ("Global Act 167 Stormwater Management Plan Water Quality Update"). Compliance with the Global Act 167 Stormwater Management Plan Water Quality Update satisfies the Non-Point Source Pollution Control Plan requirements of the Commission. Accordingly, Condition C.II.v. has been included in the DECISION section of this docket.

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

This project consists of an existing withdrawal of groundwater from 6 active wells (Walnut Gardens No. 1, Walnut Gardens No. 3, Mickley Garden No. 2, Malitsch, Huber and Lehnert Road). The docket holder has requested monthly allocations for the wells based on the installed pump capacity and/or previously approved allocations. These rates are provided in Decision Condition C.II.d. in the Decision Section of this docket.

The docket holder also has 5 other wells (Evergreen Well, Walnut Gardens No. 2, Mickley Gardens No. 1, 3960 No. 1 and 3960 No. 2) that are not used, but are retained only for emergency purposes. These wells may not be used without prior approval from the PADEP.

In its Application, Whitehall Township Authority initially requested to retain the previously approved allocation of 91.2 mg/30 days (3.04 mgd). However, the estimated ten-year projected maximum water use as stated in the Application is 1.851 mgd (55.53 mg/30 days). The Commission bases water allocations on ten-year projected maximum use estimates. The allocation of 57.38 mgm (1.851 mgd) granted herein satisfies the docket holder's ten year projected maximum use.

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. Whitehall Township Authority submitted their most recent Water Audit on February 26, 2014.

The DRBC 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-2000-009 CP-2 below:

a. The projects described in Docket Nos. D-85-37 CP, D-86-14 CP, D-87-16 CP, D-87-16 (Revised), D-90-39 CP, D-92-28 CP, D-95-48 CP and D-2000-9 CP are removed from the Comprehensive Plan to the extent that they are not included in Docket No. D-2000-009 CP-2; and

b. Docket Nos. D-85-37 CP, D-86-14 CP, D-87-16 CP, D-87-16 (Revised), D-90-39 CP, D-92-28 CP, D-95-48 CP and D-2000-9 CP are terminated and replaced by Docket No. D-2000-009 CP-2.

c. The project and the appurtenant facilities described in the Section A “Physical features” shall be added to the Comprehensive Plan.

II. 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 PADEP in its Public Water Supply Permits, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. The docket holder shall register with and report to the PADEP all surface and ground water 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 57.38 million gallons. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL DESIGNATION	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION
Evergreen Park	50 gpm	Emergency Use Only
Walnut Gardens No. 1	50 gpm	2.23 mgm
Walnut Gardens No. 2	50 gpm	Emergency Use Only
Walnut Gardens No. 3	380 gpm	16.96
Mickley Gardens No. 1	50 gpm	Emergency Use Only
Mickley Gardens No. 2	300 gpm	13.39 mgm
3960 No. 1	630 gpm	Emergency Use Only
3960 No. 2	350 gpm	Emergency Use Only
Malitsch	220 gpm	9.82 mgm
Huber	200 gpm	8.92 mgm
Lehnert Road	770 gpm	34.37 mgm

Additionally, the combined withdrawals from Walnut Gardens No. 1 and Walnut Gardens No. 3 shall not exceed 380 gpm and the combined withdrawals from Mickley Gardens No. 1 and Mickley Gardens No. 2 shall not exceed 312 gpm.

e. The wells shall be equipped, where possible, with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes as repairs or modifications are made at each existing well 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 continue to 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 data or information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing uses of ground or surface water, or if the docket holder receives a complaint by any existing ground or surface water users within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by any ground or surface users within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. The docket holder should direct phone call notifications of potential well or surface water interference or complaints of interference to the DRBC Project Review Section at 609-883-9500, extension 216. Oral notification must always be followed up in writing directed to the Executive Director. In addition, the docket holder shall provide written notification to all potentially impacted users of wells or surface water supplies of the docket holder's responsibilities under this condition. Any ground or surface water user which is substantially adversely affected, rendered dry or otherwise diminished as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and the extent of appropriate mitigation measures, if required.

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. Compliance with the Global Act 167 Stormwater Management Plan Water Quality Update satisfies the Non-Point Source Pollution Control Plan requirements and meets the general requirements of Article 3.10.3.A.2.e.1 of the Commission's Water Quality Regulations for

the Area Served as described in A.3 above within Whitehall Township and North Whitehall Township. Prior to allowing connections from any new service areas or any new developments outside the Area Served as described in A.3 above, 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 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 11, 2014

EXPIRATION DATE: June 11, 2024