

DOCKET NO. D-1969-006-2

DELAWARE RIVER BASIN COMMISSION

**SPI Pharma, Inc.
Industrial Wastewater Treatment Plant
Lewes, Sussex County, Delaware**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by SPI Pharma, Inc. (docket holder), on November 14, 2017 (Application) for renewal of the docket holder's existing industrial wastewater treatment plant (IWTP) and its discharge. The Department of Natural Resources and Environmental Control (DNREC) issued National Pollutant Discharge Elimination System (NPDES) Permit No. DE0000060 for the IWTP discharge on January 22, 2015, effective March 1, 2015.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Sussex County Planning and Zoning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on May 16, 2018.

A. DESCRIPTION

- Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 2.64 million gallons per day (mgd) SPI Pharma, Inc. IWTP and its discharge.
- Location.** The docket holder's pharmaceutical antacid manufacturing facility is located right outside Cape Henlopen State Park in Lewes, Sussex County, Delaware. The IWTP will continue to discharge to Water Quality Zone 6 of the Delaware Bay at River Mile 0.74.

The project outfall is located in the Delaware Bay Watershed as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	38° 46' 00"	75° 05' 4"

3. **Area Served.** The docket holder's IWTP will continue to receive industrial wastewater and cooling water flows from pharmaceutical antacid manufacturing facility located in Lewes, Sussex County, Delaware.

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. **Physical features.**

a. **Design criteria.** The docket holder's facility produces calcium carbonate, magnesium hydroxide and aluminum hydroxide which are used to manufacture antacid medication. The treatment of the process water consists of gravity sedimentation and pH adjustments prior to discharge.

b. **Facilities.** The existing IWTP facilities consist of 35 foot diameter hydrotreater (TSS settling tank), sludge filter press, sludge settling ponds and a discharge pump.

The project facilities are outside the 100-year floodplain.

Wasted sludge will continue to be hauled off-site by a licensed hauler for disposal at a state approved facility.

c. **Water withdrawals.** The potable water supply in the project service area is provided by the City of Lewes. The groundwater withdraw is described in detail in Docket No. D-1985-054 CP RENEWAL which was approved on September 27, 1995.

d. **NPDES Permit / DRBC Docket.** NPDES Permit No. DE0000060 was issued by DNREC on January 22, 2015, effective March 1, 2015 and includes final effluent limitations for the project discharge of 2.64 mgd to surface waters classified by DNREC as Exceptional Recreational of Ecological Significance (ERES). 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 A-1: DRBC Parameters Included in NPDES Permit

OUTFALL 001 (Delaware Bay)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	30 mg/l	As required by NPDES Permit

B. FINDINGS

The docket holder submitted an Application to renew the approval of their existing 2.64 mgd IWTP and its discharge. No modifications to the IWTP are proposed.

Zone 6 stream quality objectives do not explicitly include Total Dissolved Solids (TDS). As a consequence, the Commission finds that basin-wide TDS requirements are not always applied in Zone 6. The Commission reserves the right, in accordance with the *Water Quality Regulations (WQR)* and the *Rules of Practice and Procedure*, to apply the basin-wide TDS requirements in Zone 6 when and where it determines that the requirements are necessary to protect water uses in Zone 6.

There are no surface water intakes of record for public water supply located downstream of the docket holder's intake.

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 are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *WQR*.

C. DECISION

I. Effective on the approval date for Docket No. D-1969-006-2 below, the project described in Docket D-1969-006-1 is terminated and replaced by Docket No. D-1969-006-2 to the extent that it is not included in Docket No. D-1969-006-1.

II. The project and appurtenant facilities as described in the Section A "Physical features" of this docket 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 DNREC in its NPDES permit.

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

c. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR* and *Flood Plain Regulations (FPR)*.

d. The docket holder shall comply with the requirements contained in the EFFLUENT TABLES in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results electronically to the DRBC Project Review Section via email aemr@drbc.state.nj.us on the **Annual Effluent Monitoring Report Form** located at this web address: <http://www.state.nj.us/drbc/programs/project/pr/info.html>. 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.

e. 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*.

f. If at any time the receiving treatment facilities prove 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.

g. 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.

h. The docket holder is permitted to treat and discharge wastewaters 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.

i. 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.

j. 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).

k. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

l. 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, in order to ensure proper control, use and management of the water resources of the Basin.

m. 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.

n. 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).

o. 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).

p. 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).

q. 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.

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.

s. 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.

BY THE COMMISSION

DATE APPROVED:

EXPIRATION DATE: February 29, 2025

Expected NPDES Permit Date

DRAFT