

**DOCKET NO. D-2013-014 CP-1**

**DELAWARE RIVER BASIN COMMISSION**

**Special Protection Waters**

**New Jersey Department of Environmental Protection  
Division of Fish and Wildlife, Hackettstown State Fish Hatchery  
Town of Hackettstown, Warren County, New Jersey**

**PROCEEDINGS**

This docket is issued in response to an Application submitted by New Jersey Department of Environmental Protection, Division of Fish and Wildlife, Hackettstown State Fish Hatchery to the Delaware River Basin Commission (DRBC or Commission) on September 16, 2013 for an allocation of groundwater and review of a groundwater water withdrawal project (Application). Agricultural Water Use Certification No. WA0052, was issued by the New Jersey Department of Environmental Protection (NJDEP) on March 10, 2014, subject to approval by the DRBC.

The Application was reviewed for inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The project will be incorporated into the Comprehensive Plan. Future activities for the project will be regulated by the NJDEP in accordance with Administrative Agreement, Section IV.C.4. The Warren County Planning Department has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on September 9, 2014.

**A. DESCRIPTION**

**1. Purpose.** The purpose of this project is to approve the withdrawal of up to 13.1 million gallons per month of groundwater from new Well No. 2 for use in the aquaculture building at the docket holder's fish hatchery. The project will be incorporated into the DRBC Comprehensive Plan. Future activities for the project will be regulated by NJDEP in accordance with the Administrative Agreement Between DRBC and NJDEP, Section IV.C.4, enacted on December 18, 2009.

**2. Location.** The project well is completed in the Jacksonburg Limestone in the drainage area to Trout Brook in the Musconetcong Watershed in the Town of Hackettstown, Warren County, New Jersey in the drainage area to the Lower Delaware, which is designated as Special Protection Waters. Trout Brook and Musconetcong River near the project site is classified by the NJDEP as a FW2-TMC1 surface water.

Specific location information has been withheld for security reasons.

3. **Area Served.** The well will supply water to the aquaculture building at the docket holder’s fish hatchery. 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 Hackettstown State Fish Hatchery began its operations in 1912 and is currently responsible for the production and distribution of cool and warm water fish. The facility has two separate components, the West Hatchery and the East Hatchery that are situated on the east and west sides of Hackettstown. The West or main segment (199 acres) consists of a fish culture facility, education center, and a 100-acre extensive pond complex consisting of approximately 60 interconnected earthen ponds that range in size from 0.25 to 5 acres. The East Hatchery (34 acres) is used for extensive production and consists of 40 earthen ponds, which range in size from 0.25-1 acre. Water from Trout Brook and an unnamed tributary to the Musconetcong River pass through the hatchery ponds and back to the respective streams. The hatchery ponds and facilities are also fed by springs located on the property. The docket holder developed Well No. 2 for emergency purposes in case of problems with existing spring flows to the intensive fish aquaculture building, but if needed, it may also be used to supplement the spring flows for increased fish production.

The hatchery’s 10-year maximum groundwater is demand is 0.432 mgd. The allocation of 13.1 mgm should be sufficient to meet the future demands of the facility.

b. **Facilities.** The existing project well has the following characteristics:

WELL NO.	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY	YEAR DRILLED
Well No. 2	396’	61’ / 10”	300 gpm	2010

The well is metered.

Prior to entering the distribution system, the water will not be treated.

The project well is not located in a FEMA mapped 100-year floodplain.

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

d. **Cost.** The cost of this completed well project was \$649,736.

e. **Relationship to the Comprehensive Plan.** The project will be incorporated into the Comprehensive Plan upon the approval date of this docket. Future activities for the project will be regulated by the NJDEP in accordance with Administrative Agreement, Section IV.C.4.

## 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 well providing water supply to the Hackettstown State Fish Hatchery is 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 (i.e., there are not 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.t. has been included in the Decision section of this docket.

The hatchery ponds are run of the river and water flows through the hatchery ponds and returns undiminished back into the source. The surface water intakes into the pond complexes are not considered diversion sources and should not be subject to minimum passing flow, monitoring or reporting requirements or DRBC surface water charges.

The docket holder indicated that groundwater withdrawals will be used only when necessary to supplement the existing spring water flows to the intensive fish aquaculture building. No adverse impacts to the surrounding area are anticipated as a result of the withdrawals from the well.

### **Administrative Agreement**

This project is classified as a First Time Comprehensive Plan Project or a Category A Project according to the Administrative Agreement Between the DRBC and NJDEP (AA) Section IV.C.1., enacted on December 18, 2009. The project will be incorporated into the DRBC Comprehensive Plan. Future activities for the project will be regulated by NJDEP in accordance with the AA, Section IV.C.4. Applications for modifications or renewals of permits associated with this approval shall be submitted to NJDEP. The Commission conducts no review unless review and/or docket action or technical assistance is requested by the DRBC Commissioner from the State of New Jersey as described in Condition C.II.o. in the Decision section of this docket

The DRBC estimates that the project withdrawals, used for the purpose of aquaculture, result in a consumptive use of nearly zero 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 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-2013-014 CP-1 below, 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 NJDEP in its Agricultural Water Use Certification Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

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. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION
Well No. 2	300 gpm	13.1 mg

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 biweekly withdrawals shall be maintained, and monthly totals shall be reported to the NJDEP 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. The docket holder shall implement to the satisfaction of the NJDEP, 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 NJDEP on the actions taken pursuant to this program and the impact of those actions as requested by the NJDEP.

i. 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).

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

k. Sound practices of excavation, backfill and reseedling shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.

l. 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.

m. 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.

n. 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*.

o. Applications for modifications or renewals of permits associated with this approval shall be submitted to NJDEP. The Commission conducts no review unless review and/or docket action or technical assistance is requested by the DRBC Commissioner from the State of New Jersey in accordance with the AA, Section IV.C.4.

p. 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.

q. 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.

r. 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.

s. During any water emergency or other non-emergency declaration by the Governor of New Jersey, NJDEP or the Commission, water service or use by the project docket holder pursuant to this docket approval shall be subject to any order or restriction governing those non-essential uses specified by the NJDEP to the extent that they may be applicable, and to any other emergency resolutions or orders adopted by the Commission.

t. Prior to expanding or modifying the existing withdrawal or the surrounding site, 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.

u. 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: September 10, 2014**

**EXPIRATION DATE: September 10, 2024**