

**DOCKET NO. D-1977-058-5**

**DELAWARE RIVER BASIN COMMISSION**

**Discharge to a Tributary of Special Protection Waters**

**Mount Airy #1, LLC  
Wastewater Treatment Plant  
Paradise Township, Monroe County, Pennsylvania**

**PROCEEDINGS**

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by F. X. Browne, Inc. on behalf of Mount Airy #1, LLC (Mount Airy or docket holder) on May 22, 2017 (Application) for renewal of the docket holder's existing wastewater treatment plant (WWTP) and its discharge. The Pennsylvania Department of Environmental Protection (PADEP) issued draft National Pollutant Discharge Elimination System (NPDES) Permit No. PA0060054 for the project discharge on June 6, 2017.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Monroe County Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on August 16, 2017.

**A. DESCRIPTION**

- 1. Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 0.22 million gallon per day (mgd) WWTP and its discharge.
- 2. Location.** The Mount Airy WWTP is located off Woodland Road in Paradise Township, Monroe County, Pennsylvania. The WWTP will continue to discharge treated wastewater effluent to Forest Hills Run, which is tributary to Paradise Creek, which is tributary to Brodhead Creek, at River Mile 213.2 – 10.5 – 4.4 – 2.8 (Delaware River – Brodhead Creek – Paradise Creek – Forest Hills Run). The discharge is located in Paradise Township, Monroe County, Pennsylvania in the drainage area to the Middle Delaware Special Protection Water (SPW) Area.

The project outfall is located in the Brodhead Creek Watershed as follows:

<b>OUTFALL NO.</b>	<b>LATITUDE (N)</b>	<b>LONGITUDE (W)</b>
001	41° 6' 48.67"	75 ° 18' 51.06"

3. **Area Served.** The docket holder's WWTP serves the Mount Airy Casino Resort facilities and the Our Lady of the Poconos Convent in Paradise Township, Monroe County Pennsylvania.

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 0.22 mgd WWTP utilizes an extended aeration / activated sludge treatment system with chlorine contact disinfection.

b. **Facilities.** The WWTP facilities consist of a bar screen, an aerated equalization basin, a diversion chamber (splitter box), three complete mix activated sludge / aeration basins, three secondary clarifiers, an aerated sludge holding tank, and two chlorine contact tanks.

The docket holder's WWTP discharges to waters classified as SPW and is required to have available standby power. The docket holder indicated in the Application that the existing WWTP is equipped with generator installed capable of providing standby power.

The docket holder's WWTP is required to be staffed 24 hours per day or have a remote alarm system that continuously monitors plant operations in accordance with the Commission's SPW requirements. The docket holder indicated in the Application that the WWTP is equipped with a remote alarm system.

The docket holder has prepared and implemented an emergency management plan (EMP) for the existing WWTP in accordance with Commission SPW requirements.

The project facilities are not located in the 100 year floodplain.

Wasted sludge will 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 of the docket holder's WWTP is provided by groundwater wells owned and operated by the docket holder and individual domestic wells. The docket holder's water withdrawals were approved by the Commission via Docket No. D-1989-037-3 on February 28, 2007.

d. **NPDES Permit / DRBC Docket.** Draft NPDES Permit No. PA0060054 was issued by the PADEP on June 6, 2017 and includes effluent limitations for the project discharge of 0.22 mgd to surface waters classified by the PADEP as High Quality – Cold Water Fishery (HQ-CWF). The following INTERIM 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. The INTERIM limits go into effect upon issuance of the NPDES permit and are in effect until the end of Year 3 of the permit,

**EFFLUENT TABLE A-1:** DRBC Parameters Included in NPDES Permit for Outfall 001 (INTERIM)

<b>OUTFALL 001 (INTERIM)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
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
CBOD (5-Day at 20° C)	25 mg/l	As required by NPDES permit
Ammonia Nitrogen (5-1 to 10-31)	3.0 mg/l	As required by NPDES permit
(11-1 to 4-30)	9.0 mg/l	
Fecal Coliform (5-1 to 9-30)	200 colonies per 100 ml as a geo. avg.	As required by NPDES permit
(10-1 to 4-30)	2,000 colonies per 100 ml as a geo. avg.	
Dissolved Oxygen	6.0 mg/l minimum	As required by NPDES permit
Total Dissolved Solids*	1,000 mg/l	As required by NPDES permit
Total Phosphorous	2.0 mg/l	As required by NPDES permit
Nitrate + Nitrite - Nitrogen	Monitor & Report	As required by NPDES permit
Total Kjeldahl Nitrogen	Monitor & Report	As required by NPDES permit

\* See Condition C.II.t. in the Decision section

The following FINAL 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. The FINAL limits go into effect at the end of Year 3 of the permit, and are in effect for the duration of the permit.

**EFFLUENT TABLE A-2:** DRBC Parameters Included in NPDES Permit for Outfall 001 (FINAL)

<b>OUTFALL 001 (FINAL)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
pH (Standard Units)	6 to 9 at all times	As required by NPDES permit
Total Suspended Solids	10 mg/l	As required by NPDES permit
CBOD (5-Day at 20° C)	10 mg/l	As required by NPDES permit
Ammonia Nitrogen (5-1 to 10-31)	1.5 mg/l	As required by NPDES permit
(11-1 to 4-30)	4.5 mg/l	
Fecal Coliform (5-1 to 9-30)	200 colonies per 100 ml as a geo. avg.	As required by NPDES permit
(10-1 to 4-30)	2,000 colonies per 100 ml as a geo. avg.	
Dissolved Oxygen	7.0 mg/l minimum	As required by NPDES permit
Total Dissolved Solids*	1,000 mg/l	As required by NPDES permit
Total Phosphorous	2.0 mg/l	As required by NPDES permit
Nitrate + Nitrite - Nitrogen	Monitor & Report	As required by NPDES permit
Total Kjeldahl Nitrogen	Monitor & Report	As required by NPDES permit

\* See Condition C.II.t. in the Decision section

The requirements in EFFLUENT TABLE A-3 are not listed in the NPDES Permit, but are Commission basin-wide parameters that are required to be met as a condition of this docket approval.

**EFFLUENT TABLE A-3:** DRBC Parameters Not Included in NPDES Permit for Outfall 001

OUTFALL 001 (Forest Hills Run)		
PARAMETER	LIMIT	MONITORING
CBOD (5-Day at 20° C)	85% minimum removal	Weekly
CBOD (5-Day at 20° C) Influent	Monitor & Report	Weekly

## B. FINDINGS

The docket holder submitted an application to renew the approval of the existing 0.022 mgd Mount Airy WWTP and its discharge.

In 1992, the DRBC adopted Special Protection Waters (SPW) 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, known as the Upper/Middle Delaware River SPW area.

On July 16, 2008, the DRBC approved amendments to its *WQR* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation and clarity on definitions and terms were updated for the entire program.

The docket holder's WWTP discharges to the drainage area to the Middle Delaware River SPW. The docket holder's WWTP discharge is required to comply with the SPW requirements, as outlined in Article 3.10.3A.2. of the *WQR*.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) 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 SPW. The docket holder indicated that the Mount Airy Casino Resort is adding approximately 100 hotel rooms and ancillary rooms and facilities. The docket holder submitted a NPSPCP that meets Commission requirements for the construction associated with the additional rooms. No modifications to the WWTP facilities are proposed.. To address future increased non-point source loads generated within the portion of the docket holder's service area, DECISION Condition C.II.m. has been included in this docket.

Near the project site, Forest Hills Run has an estimated seven-day low flow with a recurrence interval of ten years of 0.71 mgd (1.1 cfs). The ratio of this low flow to the average design wastewater discharge (0.22 mgd) from the WWTP is approximately 3 to 1.

The nearest surface water intake of record for public water supply is located on the Brodhead Creek approximately 17 river miles downstream of the docket holder's WWTP discharge, and is operated by the Brodhead Creek Regional Authority.

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-1977-058-5 below, Docket Nos. D-1968-102-1, D-1974-031 CP-1, and D-1977-058-4 are terminated and replaced by Docket No. D-1977-058-5.

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 the PADEP 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](mailto: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 plant proves 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, wildlife, and/or other aquatic life 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. 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.

n. 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.

o. 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).

p. 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).

q. 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).

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. 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.

t. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

u. Nothing in this docket constitutes a defense to any penalty action for past conduct of the docket holder or ongoing activity not authorized by this approval. In particular, renewal of this docket does not resolve violations – whether in the past or continuing – of provisions of the Delaware River Basin Compact (“Compact”) or any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the Compact. The Commission reserves its right to take appropriate enforcement action against the docket holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the Compact, for any and all such prior or continuing violations.

v. 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.

w. Prior to the docket holder initiating any substantial alterations or additions to the existing WWTP as defined in Section 3.10.3A2.a.16) of the Commission's *WQR*, an application must be submitted and approved by the Commission. Such an application shall be submitted prior to final design to ensure that the Commission can provide the docket holder with draft effluent limitations for SPW specific parameters as guidance for design as to not require duplication of work or cause a substantial expenditure of public funds without Commission approval. The docket holder is encouraged to contact the Commission staff during the planning stages to identify the potential effluent limitations required to meet the no measurable change parameters under SPW.

**BY THE COMMISSION**

**DATE APPROVED: September 13, 2017**

**EXPIRATION DATE: September 13, 2022**