

DOCKET NO. D-1994-063 CP-3

DELAWARE RIVER BASIN COMMISSION

Drainage Area to Special Protection Waters

**Freeland Borough Municipal Authority
Groundwater Withdrawal**

Freeland Borough and Foster Township, Luzerne County, Pennsylvania

PROCEEDINGS

This docket is issued in response to an Application submitted by Freeland Borough Municipal Authority (FBMA or docket holder) to the Delaware River Basin Commission (DRBC or Commission) on February 27, 2017 for renewal of an allocation of groundwater and review of a groundwater water withdrawal project that includes water importation/exportation (Application) previously approved by the Commission on March 12, 2008. The Pennsylvania Department of Environmental Protection (PADEP) issued operations permits for Wells 9, 12 and 14 (also known as Well 17) on July 2, 1973 (Public Water Supply Permit No. 4073501; October 15, 1991 (Public Water Supply Permit No. 4088510); and January 26, 1998 (Public Water Supply Permit No. 2400054), respectively.

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 Luzerne County Planning Commission has been notified of pending action on this docket. 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 the approval of a groundwater withdrawal project to continue to supply up to 17.2 million gallons per month (mgm) from Wells 9, 12 and 14 (also known as Well 17) for use as public water supply with no increase in the previously approved allocation.

2. Location. The project wells are completed in the Mauch Chunk Formation and are located in the drainage area to Pond Creek, a tributary to Sandy Run in the Middle Lehigh River Watershed in Freeland Borough and Foster Township, Luzerne County, Pennsylvania. The wells and area served within the Delaware River Basin is located in the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Water (SPW).

Specific location information has been withheld for security reasons.

3. **Area Served.** The FBMA serves water to Freeland Borough and adjacent portions of Foster and Butler Townships. Freeland Borough's area served is located on a ridge between the Delaware River Basin (DRB) and the Susquehanna River Basin (SRB). Approximately one half (the northern part) of the Borough of Freeland and half of the portions of Foster and Butler Townships served by the wells are located outside the DRB in the SRB. The area served is outlined on a map entitled "Figure 4 Water Service Area" 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 FMBA serves water to an estimated population of 4,605 on 2,179 domestic service connections, 242 commercial service connections, 4 industrial service connections and 3 institutional service connections with an average and maximum daily water demand of 0.272 million gallons per day and 0.501 mgd, respectively. The docket holder projects a ten-year future average and maximum daily water demand of 0.300 mgd and 0.552 mgd, respectively. The docket holder's current monthly usage is recorded at approximately 10.8 million gallons per month and is not expected to increase over the next 10 years.

The docket holder operates four (4) additional wells in the Susquehanna River Basin (Wells 4, 6, 10 and 11). During 2015, the SRB wells supplied an average of 0.163 mgd, which is approximately 60 percent of the total system production. Combined monthly withdrawals from the three DRB wells ranged from approximately 2.5 mgm to 5.5 mgm during 2015.

b. **Facilities.** Three of the FBMA's seven existing project wells are located in the DRB and have the following characteristics:

WELL NO.	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY	YEAR DRILLED
9	465'	40'	125 gpm	1970
12	600'	85'	80 gpm	1989
14 (17)	397'	50'	225 gpm	1992

All water service connections are metered.

All wells are metered.

Prior to entering the distribution system, all water is chlorinated. Water from Well 14 (17) is also air-stripped for radon removal.

The project wells are not located in a 100-year floodplain.

The water system has an emergency interconnection with the City of Hazelton.

c. **Other.** Wastewater from the entire FBMA service area (DRB and SRB portions) is conveyed to the Freeland Borough Municipal Authority wastewater treatment plant most recently approved by DRBC Docket No. D-1965-052 CP-4 on June 10, 2015. The PADEP issued its most recent NPDES Permit No. PA0024716 on October 2, 2009 for this treatment facility. The treatment facility has adequate capacity to continue to receive wastewater from the existing project.

d. **Cost.** There are no construction related costs pertaining to this docket renewal.

e. **Relationship to the Comprehensive Plan.** The FBMA's existing wells were previously included in the Comprehensive Plan by Docket Nos. D-73-95 CP and D-94-63 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 Freeland Borough Municipal Authority are located within in the drainage area to the Special Protection Waters. Since this project does not entail additional construction and expansion of service area, there is 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 C.II.x. has been included in the Decision section of this docket.

Water Importation

The docket holder's wells and service area are located on the basin divide where transfers of water to and from the DRB is unavoidable. Ultimately, the water from the docket holder's service area including the water sourced from the wells located in the SRB is discharged to the docket holder's WWTP located in the DRB resulting in a net increase of water to the DRB. The importation of water was approved in DRBC Docket No. D-1965-052 CP-4. The exportation of water from the DRB wells to the docket holder's service area located in the SRB is considered insignificant because the wastewater generated in this area is collected and conveyed back into the DRB for discharge at the docket holder's WWTP.

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. FBMA submitted their most recent Water Audit on March 21, 2017.

Other Findings

The docket holder is currently testing a potential new groundwater source in the DRB. The docket holder must apply to and receive Commission approval prior the use of this new well.

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 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-1994-063 CP-3 below:

- a. The project described in Docket No. D-94-63 CP-2 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1994-063 CP-3; and
- b. Docket No. D-94-63 CP-2 is terminated and replaced by Docket No. D-1994-063 CP-3.
- 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 Water Supply Permits. 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 DRB well sources shall not exceed 17.2 million gallons. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION
9	125	5.04
12	80	3.21
14 (17)	225	8.95

- 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 implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

m. 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.

n. 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.

o. 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*.

p. 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.

q. 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).

r. 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 401.35).

s. 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 401.35).

t. 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.

u. If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the docket holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the docket holder shall provide written notice to all potentially affected water users of the docket holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the docket holder's project withdrawal shall be repaired, replaced or mitigated at**

the docket holder's expense. The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the docket holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement or mitigation.

v. 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.

w. 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.

x. 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.

y. 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 13, 2017

EXPIRATION DATE: September 13, 2027