

DOCKET NO. D-2010-003 CP-2

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**NIS Hollow Estates, LLC
Wastewater Treatment Plant
East Penn Township, Carbon County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by NIS Hollow Estates, LLC (docket holder) on April 9, 2014 (Application), for renewal of the docket holder's existing wastewater treatment plant (WWTP) and its related discharge. National Pollutant Discharge Elimination System (NPDES) Permit No. PA0070220 for the project discharge was issued by the Pennsylvania Department of Environmental Protection (PADEP) on September 9, 2014.

The Application was reviewed for continuation of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact (Compact)*. The Carbon County Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on September 15, 2015.

A. DESCRIPTION

- 1. Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 0.018 million gallon per day (mgd) WWTP and its related discharge. No modifications to the WWTP are proposed.
- 2. Location.** The docket holder's WWTP is located on NIS Hollow Road in East Penn Township, Carbon County, Pennsylvania. The WWTP will continue to discharge to an unnamed tributary to the Lehigh River at River Mile 183.7 – 39.3 – 1.2 (Delaware River – Lehigh River – UNT Lehigh River) and 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).

The project outfall is located in the Lehigh River Watershed as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	40 ° 48' 26"	75 ° 41' 30"

3. **Area Served.** The docket holder's WWTP will continue to serve the NIS Hollow Estates Mobile Home Park located in East Penn Township, Carbon 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 0.018 mgd WWTP utilizes a conventional activated sludge treatment process, with chlorine contact disinfection.

b. **Facilities.** The existing WWTP facilities consist of a grinder, a bar screen, an influent equalization tank, an aeration tank, a clarifier, a chlorine contact disinfection tank which utilizes sodium hypochlorite, and finally dechlorination via sodium bisulfite prior to discharging to the receiving stream via Outfall No. 001. The facility also includes an aerobic sludge digester.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available standby power. The existing WWTP has a generator installed capable of providing standby power. (SPW)

The docket holder's wastewater treatment facility is not staffed 24 hours per day, and shall have a remote alarm system that continuously monitors plant operations in accordance with the Commission's SPW requirements. The docket holder is required as part of this docket approval to install a remote alarm that continuously monitors plant operations within six (6) months of approval of this docket (See DECISION Condition II.n.). (SPW)

The docket holder has not prepared and implemented an emergency management plan (EMP) in accordance with Commission SPW requirements for the existing WWTP. The docket holder is required as part of this docket approval to prepare and submit an EMP to the DRBC for approval within six (6) months of approval of this docket (See DECISION Condition II.n.). (SPW)

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

Waste 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 onsite wells owned and operated by the docket holder. The wells are operated below the DRBC review threshold.

d. **NPDES Permit / DRBC Docket.** PADEP issued NPDES Permit No. PA0070220 for the project discharge on September 15, 2014, which includes effluent limits for the project discharge to surface waters classified as cold water fishery (CWF) and migratory fishery (MF). EFFLUENT TABLE A-1 is in effect until September 30, 2017, in accordance with the NPDES permit. EFFLUENT TABLE A-2 goes into effect October 1, 2017, in accordance with the NPDES permit. The following average monthly effluent limits and monitoring requirements, based on a flow of 0.018 mgd, are for DRBC parameters listed in the NPDES permit that meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE A-1: DRBC Parameters Included in NPDES permit, in effect until September 30, 2017

OUTFALL 001 (UNT Lehigh River)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6.0 to 9.0	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
Fecal Coliform		
5/1 – 9/30	200 colonies per 100 ml as a geo. avg.	As required by NPDES permit
10/1 – 4/30	2,000 colonies per 100 ml as a geo. avg.	
Dissolved Oxygen (D.O.)	5.0 mg/l (minimum)	As required by NPDES permit
Nitrate + Nitrite as N	Monitor & Report	As required by NPDES permit
Total Nitrogen	Monitor & Report	As required by NPDES permit
Ammonia as N	Monitor & Report	As required by NPDES permit
Total Phosphorous	Monitor & Report	As required by NPDES permit
Total Dissolved Solids*	1,000 mg/l	As required by NPDES permit

* See Condition II.r. in DECISION section

EFFLUENT TABLE A-2: DRBC Parameters Included in NPDES permit, to go into effect October 1, 2017

OUTFALL 001 (UNT Lehigh River)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6.0 to 9.0	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
Fecal Coliform		
5/1 – 9/30	200 colonies per 100 ml as a geo. avg.	As required by NPDES permit
10/1 – 4/30	2,000 colonies per 100 ml as a geo. avg.	
Dissolved Oxygen (D.O.)	5.0 mg/l (minimum)	As required by NPDES permit
Nitrate + Nitrite as N	Monitor & Report	As required by NPDES permit
Total Nitrogen	Monitor & Report	As required by NPDES permit
Ammonia as N		
5/1 – 10/31	17.8 mg/l	As required by NPDES permit
11/1 – 4/30	Monitor & Report	
Total Phosphorous	Monitor & Report	As required by NPDES permit
Total Dissolved Solids*	1,000 mg/l	As required by NPDES permit

* See Condition II.r. in DECISION section

The following average monthly monitoring requirements are not listed in the NPDES permit and are effluent requirements of the DRBC, to go into effect upon issuance of this docket.

EFFLUENT TABLE A-3: DRBC parameters not included in NPDES permit

OUTFALL 001 (UNT Lehigh River)		
PARAMETER	LIMIT	MONITORING
CBOD (5-Day at 20° C) Influent	Monitor & Report	Monthly

e. **Relationship to the Comprehensive Plan.** The WWTP was added to the Comprehensive Plan via DRBC Docket No. D-2010-003 CP-1 on July 14, 2010.

B. FINDINGS

This docket renews the approval of the docket holder's existing 0.018 mgd WWTP.

In 1992, the DRBC adopted 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 has been 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. (Upper/Middle SPW)

On July 16, 2008, the DRBC approved amendments to its Water Quality Regulations (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. (Lower SPW)

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 service area of the docket holder is located within in the drainage area to the SPW. Since this project does not entail additional construction and expansion of facilities or service area (i.e., there aren't any new or increased non-point source loads associated with this approval), the NPSPCP requirement is not applicable at this time. Accordingly, DECISION Condition II.m. has been included in this docket.

Near the WWTP discharge location, the Lehigh Rover at Lehighon (USGS Gage No. 01449000) has a seven-day low flow with a recurrence interval of ten years (Q7-10 flow) of 97 mgd (151 cfs). The ratio of this low flow to the design waste water discharge from the 0.018 mgd (0.028 cfs) WWTP is approximately 5,400 to 1.

The nearest surface water intake of record for public water supply downstream of the project discharge is owned and operated by the Northampton Borough Municipal Authority, located on the Lehigh River approximately 16 miles downstream of the project discharge.

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 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-2010-003 CP-2 below:

a. The project described in Docket No. D-2010-003 CP-1 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2010-003 CP-2; and

b. Docket No. D-2010-003 CP-1 is terminated and replaced by Docket No. D-2010-003 CP-2 and

c. The project and the appurtenant facilities described in Section A "Physical Features" of this docket shall be continued in the Comprehensive Plan.

II. The project and appurtenant facilities as described in 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, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission's.

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/application/index.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 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. 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 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 shall install remote alarm controls and prepare an emergency management plan (EMP) within six (6) months of docket approval. The docket

holder shall submit the EMP and certify in writing to the Commission that it has complied with this condition by March 16, 2016.

o. 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.

p. 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.

q. 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.

r. 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.

s. 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.

t. 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.

u. 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 16, 2015

EXPIRATION DATE: September 30, 2019