

DOCKET NO. D-1989-048 CP-4

DELAWARE RIVER BASIN COMMISSION

J.G. Townsend Jr. & Company
Groundwater Withdrawal and Importation Project
Town of Georgetown, Sussex County, Delaware

PROCEEDINGS

This docket is issued in response to an Application submitted by J.G. Townsend Jr. & Company (J.G. Townsend) to the Delaware River Basin Commission (DRBC or Commission) on April 6, 2015 for renewal of an allocation of groundwater and review of a groundwater water withdrawal project and importation project (Application). The groundwater withdrawal project was approved by the Delaware Department of Natural Resources and Environmental Control (DNREC) on June 16, 1989 (Permit No. 88-0011). These sources were previously approved by the Commission in Docket No. D-89-48-3 on March 1, 2006. These withdrawals will continue to be regulated by DNREC in accordance with the Administrative Agreement (AA) between DRBC and the State of Delaware, Section IV.C.4, enacted on July 2010 and modified on May 8, 2013. The docket holder's importation of groundwater remains reviewable by the Commission and is the subject of this docket renewal.

The Application was reviewed for continuation and approval under Section 3.8 of the Delaware River Basin Compact. The Sussex County Planning and Zoning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on November 10, 2015.

A. DESCRIPTION

- 1. Purpose.** The purpose of this project is to renew the approval of an existing import project of up to 15.5 million gallons per month (mgm) from the Chesapeake Bay Basin (CBB) from existing J.G. Townsend Wells Nos. 1 and 5 to supply water to the applicant's vegetable processing facility. The application also requested to renew the approval to withdraw up to 15.5 mgm of groundwater from five groundwater sources. The requested allocation is not an increase from the previous allocation. The project's existing groundwater withdrawals are approved by DNREC and will continue to be regulated in accordance with the Administrative Agreement (AA) entered into on July 2010 by the Commission and the State of Delaware.
- 2. Location.** The project wells are completed in the Columbia Formation and are located in the Savannah Ditch Watershed in the Town of Georgetown, Sussex County, Delaware.

Specific location information has been withheld for security reasons.

3. **Area Served.** The project withdrawals will be used to supply water to the docket holder's vegetable processing facility only. 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 project wells supply water to the docket holder's facility for industrial processes and cooling

The average and maximum demand is 0.36 million gallons per day (mgd) and 1.0 mgd, respectively. The docket holder estimates an increase in average and maximum of 0.5 mgd and 1.3 mgd, respectively over the next ten years. The allocation of 15.5 mgm should be sufficient to meet the future demands of the J.G. Townsend facility.

b. **Facilities.** The existing project wells have the following characteristics:

WELL NO.	DEPTH (FEET)	SCREENED INTERVAL (FEET TO FEET)	PUMP CAPACITY (GPM)	YEAR DRILLED
1 (Out of Basin)	109	69 to 109	1200	1984
2	84	74 to 84	15	1986
3	78	68 to 78	8	1979
4	116	96 to 116	8	1986
5 (Out of Basin)	110	85 to 105	45	1947

All wells are metered.

Prior to entering the distribution system, the water from Well No. 1 is chlorinated prior to plant use.

The project wells are above the 100-year flood elevation.

The J.G. Townsend facility is presently interconnected with the Town of Georgetown distribution system, with a capacity of 0.5 mgd.

c. **Other.** Wastewater is conveyed to the SAW, Inc. sewage treatment facility most recently approved by DRBC Docket No. D-1976-119 on January 27, 1977. DNREC issued its most recent NPDES Permit No. DE0000141 on November 1, 2012 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

- d. **Cost.** There is no cost associated with this renewal project.

B. **FINDINGS**

Groundwater Importation

The J.G. Townsend water system has two wells (Wells Nos. 1 and 5) which provide up to 15.5 mgd of groundwater from the CBB. The J.G. Townsend facility is located in the DRB in the Town of Georgetown, Sussex County, Delaware, although the CBB and Delaware River Basin (DRB) divide runs through the facility property. Wastewater for both projects is conveyed to the SAW, Inc. sewage treatment facility located within the DRB. The continued importation of water to the DRB from sources outside of the DRB reduces reliance on in-basin sources. No other significant benefit or impairment is incurred to the basin from the ongoing importation of water from the J.G. Townsend wells located in the CBB.

The DNREC water allocation is valid for a period of 30 years from date of issue (June 16, 1989) with review every five years. Industrial water allocation Permit No. 88-0011 expires on June 16, 2019. Only Wells Nos. 1 and 5 have allocations in Permit No. 88-0011. The allocations included in the DNREC permit are:

- In any twenty-four (24) hour period, pumping may not exceed 0.5 mg total for all wells.
- In any thirty (30) day period, pumping may not exceed 15.0 mg total for all wells.
- In any twelve (12) month period, pumping may not exceed 135.0 mg total for all wells.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

The DRBC estimates that the project withdrawals, used for the purpose of vegetable processing, 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*.

C. **DECISION**

I. Effective on the approval date for Docket No. D-1989-048 CP-4 below, Docket No. D-1989-048-3 is terminated and replaced by Docket No. D-1989-048 CP-4.

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 DNREC in its water allocation permit (Permit No. 88-0011), and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. The wells and operational records shall be available at all times for inspection by the DRBC.

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 well sources shall not exceed 15.5 million gallons (mg). During any year, the combined withdrawal from all well sources shall not exceed 135.0 mg. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MGM)
1 (Out of Basin)	1,200	15.5
2	15	0.5
3	8	0.357
4	8	0.357
5 (Out of Basin)	45	2.0

e. The wells shall be equipped with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes so that water levels may be measured under all conditions. Existing wells are to be similarly equipped, where possible, with readily accessible ports and ½ inch ID drop pipes as repairs or modifications are made at each existing well.

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 DNREC 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 DNREC, 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 DNREC on the actions taken pursuant to this program and the impact of those actions as requested by the DNREC.

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 continue to implement its Water Conservation Plan as approved by DNREC, and shall report to the DNREC on actions taken pursuant to this program and the impact of those actions as requested by the DNREC.

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

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. 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 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 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 docket 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 certified mail or email (using addresses posted on the DRBC website); or (b) written notice in accordance with the preceding clause 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.

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. For the duration of any drought emergency declared by Delaware 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 Delaware or DNREC to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

t. 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: December 9, 2015

EXPIRATION DATE: December 9, 2025