

**DOCKET NO. D-2002-033 CP-2**

**DELAWARE RIVER BASIN COMMISSION**

**Discharge to the Drainage Area to Special Protection Waters**

**Village of Fleischmanns  
Wastewater Treatment Plant  
Town of Middletown, Delaware County, New York**

**PROCEEDINGS**

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by the Village of Fleischmanns (docket holder) on March 27, 2014 (Application), for renewal of the docket holder's existing wastewater treatment plant (WWTP) and its related discharge. State Pollutant Discharge Elimination System (SPDES) renewal Permit No. NY0261521 for this facility was issued by the New York State Department of Environmental Conservation (NYSDEC) on September 27, 2004.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact (Compact)*. The Delaware County Planning Board has been notified of pending action. A public hearing on this project was held by the DRBC on November 10, 2015.

**A. DESCRIPTION**

- 1. Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 0.16 million gallon per day (mgd) WWTP and its related discharges to the Bush Kill. No modifications to the WWTP facilities are proposed.
- 2. Location.** The docket holder's WWTP is located off of Main Street / Old Route 28 just west of its intersection with Takanasee Road in the Village of Fleischmanns, Delaware County, New York. The WWTP will continue to discharge to Bush Kill, which is tributary to Dry Brook, which is tributary to the East Branch Delaware River, upstream of the Pepacton Reservoir, at River Mile 350.7 -56.8 – 1.2 – 4.4 (Delaware River – East Branch Delaware River – Dry Creek - Bush Kill) The WWTP is located in the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Water (SPW).

The project discharge is located in the East Branch Delaware River Watershed as follows:

<b>OUTFALL</b>	<b>LATITUDE (N)</b>	<b>LONGITUDE (W)</b>
Outfall 001	42° 9' 22"	74° 32' 50"

3. **Area Served.** The docket holder's WWTP will continue to serve the Village of Fleischmanns, Delaware County, New York. 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 0.16 mgd WWTP will continue to utilize an activated sludge treatment system.

b. **Facilities.** The WWTP facilities consist of headwork with an automatic bar screen, an aerated equalization basin, two (2) aeration basins, two (2) secondary clarifiers, three (3) sand filters, and a chlorination / dechlorination unit. The facility also features a sludge holding tank.

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 to install a remote alarm system that continuously monitors plant operations or provide evidence that a remote alarm system has been installed 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 groundwater wells and springs that are owned and operated by the docket holder. The water withdrawal is described in detail in Docket No. D-2009-008 CP-1, which was approved on May 5, 2010 and has since expired (May 5, 2015). As described in the Decision section, Condition C.II.v., the docket holder shall apply to the Commission for a water withdrawal docket by January 9, 2016.

d. **SPDES Permit / DRBC Docket.** SPDES Permit No. NY0261521 was issued by the NYSDEC on September 27, 2004 and includes final effluent limitations for the project discharge of 0.16 mgd to surface waters classified by the state agency as Class B Trout Stocking Stream. The following average monthly effluent limits for Outfall 001, based on a flow of 0.16 mgd, are for DRBC parameters listed in the SPDES permit that meet or are more stringent than the effluent requirements of the DRBC.

**EFFLUENT TABLE A-1: DRBC Parameters Included in SPDES permit**

<b>OUTFALL 001 (Bush Kill)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
pH (Standard Units)	6.5 to 8.5	As required by SPDES permit
Total Suspended Solids	10 mg/l (daily maximum)	As required by SPDES permit
CBOD (5-Day at 20° C)	5 mg/l (daily maximum) 85% minimum removal	As required by SPDES permit
Ammonia Nitrogen (6-1 to 10-31) (11-1 to 5-31)	1.1 mg/l (daily maximum) 2.2 mg/l (daily maximum)	As required by SPDES permit
Dissolved Oxygen	7.0 mg/l (daily minimum)	As required by SPDES permit
Total Phosphorous	0.5 mg/l (daily maximum)	As required by SPDES permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg.	As required by SPDES permit

The following average monthly effluent monitoring for Outfall 001 is for DRBC requirements not listed in the SPDES permit.

**EFFLUENT TABLE A-2: DRBC Parameters Not Included in SPDES permit**

<b>OUTFALL 001 (Bush Kill)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
Total Dissolved Solids*	Monitor & Report	Quarterly

\* See Condition II.q. in DECISION section

e. **Relationship to the Comprehensive Plan.** The docket holder's 0.16 mgd WWTP was added to the Comprehensive Plan by Docket No. D-2002-36 CP on July, 13, 2004.

## **B. FINDINGS**

This docket renews the approval of the docket holder's existing 0.16 mgd WWTP and its discharge. No modifications to the WWTP facilities are proposed.

In 1992, the DRBC adopted SPW requirements, as part of the DRBC 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 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. (Upper/Middle 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. However, the project is located upstream of the Pepacton Reservoir, and therefore is exempt from having to submit a NPSPCP.

At the project WWTP discharge location, the Bush Kill has a seven-day low flow with a recurrence interval of ten years (Q7-10 flow) of 2.2 mgd (3.4 cfs). The ratio of this low flow to the design waste water discharge from the 0.16 mgd (0.25 cfs) WWTP is approximately 14 to 1.

The nearest surface water intake of record for public water supply is from the Pepacton Reservoir located on the East Branch Delaware River approximately 25 River Miles downstream of the docket holder's WWTP, and is operated by the City of New York.

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 SPDES 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-2002-033 CP-2 below:

a. The project described in Docket No.D-2002-033 CP-1 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2002-033 CP-2; and

b. Docket No(s). D-2002-033 CP-1 is terminated and replaced by Docket No. D-2002-033 CP-2; and

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 NYSDEC and its SPDES 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](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/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. The docket holder shall provide evidence that remote alarm controls have been installed at the existing WWTP and prepare an 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 June 9, 2016.

n. 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.

o. 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.

p. 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.

q. 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.

r. 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.

s. 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.

t. 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.

u. The docket holder owes a remaining balance of \$2,000 for this docket renewal. The balance shall be paid within sixty (60) days of issuance of this docket (by February 7, 2016) or fees may be assessed in accordance with the Commission’s Penalty Matrix.

v. The docket holder shall file an application with the Commission by January 9, 2016 for its groundwater and spring water withdrawals that were included Docket No. D-2009-008 CP-1, which was approved on May 5, 2010 and has since expired (May 5, 2015).

**BY THE COMMISSION**

**DATE APPROVED: December 9, 2015**

**EXPIRATION DATE: December 9, 2020**