

DOCKET NO. D-1985-030-2

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**American Nickeloid Company
Industrial Wastewater Treatment Plant
Walnutport Borough, Northampton County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by EarthRes Group, Inc. on behalf of American Nickeloid Company (ANC or docket holder) on February 28, 2014 (Application), for renewal of the docket holder's existing industrial wastewater treatment plant (IWTP) and its discharge. National Pollutant Discharge Elimination System (NPDES) Permit No. PA0011762 for this facility was issued by the Pennsylvania Department of Environmental Protection (PADEP) on August 28, 2013, effective September 1, 2013.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on December 9, 2014.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to renew approval of the docket holder's existing 0.045 million gallons per day (mgd) IWTP and its discharge. The IWTP effluent is monitored at MP 101 prior to its comingling with stormwater from the site and discharging to the Lehigh River via Outfall No. 001.

2. Location. The IWTP will continue to discharge treated effluent to the Lehigh River at River Mile 183.66 – 45.11 (Delaware River – Lehigh River) via Outfall No. 001, within the drainage area to the Lower Delaware Special Protection Waters (SPW), in the Walnutport Borough, Northampton County, Pennsylvania as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	40° 45' 28.76"	75° 36' 10"

3. **Area Served.** The docket holder's IWTP will continue to serve the docket holder's Walnutport facility located in Northampton 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 will continue to operate its existing 0.045 mgd IWTP. The IWTP effluent is monitored at MP 101 prior to its comingling with stormwater from the site and discharging to the Lehigh River via Outfall No. 001.

b. **Facilities.** The IWTP consists of four (4) filter presses, a mixed waste tank, a clarifier, an ultrafilter, a neutralization tank, and a discharge tank. Treated effluent is comingled with stormwater runoff prior to discharge.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available emergency power unless it can be shown that a the discharge can be interrupted for an extended period of time with no threat to the water quality of SPW. In the event of power loss, the docket holder's entire facility shuts down and there are no IWTP discharges. All untreated waste can be re-routed to the head of the process for treatment prior to discharge and therefore the IWTP is not required to have a generator installed capable of providing emergency power.

The docket holder's wastewater treatment facility is staffed 24 hours per day, and therefore is not required to have a remote alarm system that continuously monitors plant operations installed in accordance with the Commission's SPW requirements.

The docket holder's existing wastewater treatment facility has prepared and implemented an emergency management plan (EMP) in accordance with Commission SPW requirements.

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

Wasted sludge from the four filter presses 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 supplied by the Walnutport Authority and was last approved by the Commission via Docket No. D-1990-087 CP-3 on June 11, 2014.

d. **NPDES Permit / DRBC Docket.** NPDES Permit No. PA0011762 was issued by the PADEP on August 28, 2013 (effective September 1, 2013) and includes final effluent limitations for the project discharge of 0.045 mgd to surface waters classified by the PADEP as a migratory, trout stocking fishery (MF/TSF). The following 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.

EFFLUENT TABLE A-1: DRBC Parameters Included in NPDES Permit

OUTFALL 101 (IWTP)		
PARAMETER	LIMIT	MONITORING
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
Total Dissolved Solids	4,000 mg/l 1,501 lbs/day	As required by NPDES Permit

The requirements in EFFLUENT TABLE A-2 are not listed in the NPDES Permit, but are Commission basin-wide and/or SPW specific parameters that must be met as a condition of this docket approval. Commission staff have requested PADEP include these parameters in their next Permit. Monitoring shall begin January 1, 2015 for each parameter (See DECISION Condition II.d.).

EFFLUENT TABLE A-2: DRBC Parameters Not Included in NPDES Permit

OUTFALL 101 (IWTP)		
PARAMETER	LIMIT	MONITORING
CBOD ₅ (at 20° C) Influent & Effluent	Monitor & Report	Monthly
Ammonia Nitrogen	Monitor & Report	Monthly
Nitrate as N (5/1 – 9/30)	Monitor & Report	Monthly
Total Nitrogen (5/1 – 9/30)	Monitor & Report	Monthly
Dissolved Oxygen (5/1 – 9/30)	Monitor & Report	Monthly
Phosphorus (5/1 – 9/30)	Monitor & Report	Monthly

- e. **Cost.** There are no construction costs associated with this IWTP renewal.

B. FINDINGS

The purpose of this docket is to renew approval of the docket holder's existing 0.045 mgd IWTP and its discharge. The IWTP effluent is monitored at MP 101 prior to its comingling with stormwater from the site and discharging to the Lehigh River via Outfall No. 001.

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.

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/service area (i.e., there are not any new or increased non-point source loads associated with this approval), the NPSPCP requirement is not applicable at this time. Accordingly, DECISION Conditions II.m. and II.r. have been included in this docket.

Total Dissolved Solids (TDS)

The Commission's basin-wide TDS effluent limit is 1,000 mg/l (Section 3.10.4D.2. of the Commission's *WQR*). In addition, the Commission's basin-wide in-stream TDS requirements provide the analysis of the in-stream conditions after the introduction of the project's effluent discharge demonstrate that 1) the receiving stream's resultant TDS concentration be less than 133% of the background (Section 3.10.3B.1.b. of the Commission's *WQR*) and the receiving stream's resultant TDS concentration be less than 500 mg/l (Section 3.10.3B.2. of the Commission's *WQR*).

The 133% of the background TDS requirement is for the protection of aquatic life. The 500 mg/l TDS requirement is to protect the use of the receiving stream as a drinking water source. The EPA's Safe Drinking Water Act's secondary standard for TDS is 500 mg/l.

According to the United States Geological Survey (USGS) Streamstats program the Lehigh River at docket holder's IWTP discharge has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 120 mgd (185 cfs). The ratio of this low flow to the hydraulic design wastewater discharge from the 0.045 mgd IWTP is 2,667 to 1.

Docket No. D-85-30 included a narrative that agreed with a 1,683 lbs/day and 3,744 mg/l TDS effluent concentration limitation for a discharge flow of 0.0539 mgd. The docket also suggested that the background TDS concentration in the Lehigh River near the docket holder's IWTP is 100 mg/l. Since that time the effluent flow has reduced to 0.045 mgd and the TDS load has decreased to 1,501 lbs/day. Therefore the TDS concentration has increased slightly to 4,000 mg/l. Commission staff have determined that the existing TDS effluent limitations in the NPDES Permit are consistent with prior DRBC approvals. In-stream concentrations of TDS are expected to elevate by less than two (2) percent as a result of this discharge and remain below 500 mg/l. The variance for TDS of 4,000 mg/l (1,501 lbs/day) on a monthly average basis is therefore continued as approved in the PADEP NPDES Permit.

Other

The nearest surface water intake of record for public water supply is located on the Lehigh River approximately 20.4 River Miles downstream of the docket holder's IWTP, and is operated by the Northampton Borough Municipal 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-1985-030-2 below, Docket No. D-85-30 is terminated and replaced by Docket No. D-1985-030-2.

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*.

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. 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 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.

r. 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: December 10, 2014

EXPIRATION DATE: August 31, 2018