

DOCKET NO. D-1988-066-4

DELAWARE RIVER BASIN COMMISSION

**Southeastern Pennsylvania
Ground Water Protected Area**

**Frontier Bulk Solutions – Mulch Mountain
Groundwater Withdrawal
Douglass Township, Montgomery County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by Frontier Bulk Solutions (FBS) to the Delaware River Basin Commission (DRBC or Commission) on May 15, 2014 (Application), for a renewal and approval of an allocation of groundwater and review of a groundwater withdrawal project in the Ground Water Protected Area of Southeastern Pennsylvania. This docket was previously approved by the Commission on May 18, 2005.

The Application was reviewed for continuation of the project and approval under Section 3.8 and for a withdrawal permit under Section 10.3 of the Delaware River Basin Compact. The Montgomery County Planning Commission has been notified of pending action on this permit. A public hearing on this project was held by the DRBC on December 9, 2014.

A. DESCRIPTION

- 1. Purpose**-- The purpose of this project is to renew the approval of up to 10.354 million gallons per month (mgm) of water to operate the docket holder's Mulch Mountain nursery from existing Wells Nos. 1 and 33. FBS is not requesting an increase in groundwater withdrawal allocation.
- 2. Location**-- The project wells are located in the Schlegel Run Watershed, in Douglass Township, Montgomery County, Pennsylvania. Schlegel Run near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting Trout Stocking Fishes (TSF) and Migratory Fishes (MF). The project wells are located in the Brunswick Formation.

Specific location information has been withheld for security reasons.

3. **Service area** – The project wells only serve the Mulch Mountain nursery in Douglass Township, Montgomery County, Pennsylvania. The associated facilities are located on a map entitled “Site Base Map” submitted with the previous 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**.—FBS uses groundwater from Wells Nos. 1 and 33 to operate and irrigate the Mulch Mountain nursery. The nursery utilizes drip and spray irrigation for maximum efficiency to irrigate shade, ornamental and container grown plants. The average and maximum demand is 0.168 million gallons per day (mgd) and 0.204 mgd, respectively. The docket holder does not project an increase in average and maximum water demand within the next ten years.

b. **Facilities**. -- The docket holder’s existing wells have the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH (FEET)	PUMP CAPACITY (GPM)	YEAR DRILLED
1	435	62	380	1998
33	110	30	45	unknown

The project wells are metered.

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

The water system is not presently interconnected with any other distribution system.

c. **Other**. – Wastewater is conveyed to an on-site septic system.

B. FINDINGS

The project is located within the Southeastern Pennsylvania Ground Water Protected Area delineated by the DRBC pursuant to Compact Section 10.2. The project is designed to conform to the requirements of the *Water Code, Water Quality Regulations and Ground Water Protected Area Regulations (GWPAR)* of the DRBC.

Review and analysis of the application pursuant to Section 6d. of the *Ground Water Protected Area Regulations (GWPAR)* result in the following:

1. The withdrawal is consistent with the Commission's Comprehensive Plan and the policies and purposes of these regulations.

2. Opportunities to satisfy water requirements on a timely basis from existing available supplies and facilities have been explored and found infeasible.
3. The withdrawal, in conjunction with other withdrawals in the applicable ground water basin, should not exceed withdrawal limits of the groundwater basin, aquifer or aquifer system.
4. The withdrawal should not significantly impair or reduce the flow of perennial streams in the area.
5. Existing ground and surface water withdrawals should not be adversely impacted, or will be otherwise assured of adequate supplies in accordance with the requirements of Section 10 of the *GWP*. There have been no reported complaints of well interference since the first approval of this renewal project. No adverse impact is anticipated due to continued operation of this project.
6. The withdrawal should not cause substantial, permanent adverse impact to the overlying environment.
7. The docket holder adopted and will implement conservation and management programs as required by Section 7 of the *GWP*.

The docket holder's Well No. 1 was first approved by the Commission in Docket No. D-1988-066 on December 14, 1988. Well No. 33 was approved by the Commission in Docket No. D-1988-066 RENEWAL, on December 8, 1993. The nursery's approval was continued in Docket No. D-1988-066-3, which was approved on May 18, 2005. Issuance of this docket will continue the approval of this groundwater withdrawal project.

The Mulch Mountain nursery is located in the Swamp-Middle Creeks subbasin, where total net annual ground water withdrawal (225 mgd) is less than the withdrawal limit set in Section 6.I of the *GWP* (1,898 mgd). The applicant is requesting a monthly allocation of 10.354 mgd, which equates to 124.25 mgd, a fraction of which will be returned to ground water. However, even if no water from this project were returned to ground water, the total net annual ground water withdrawal from this subbasin would remain below the withdrawal limits set in Section 6.I of the *GWP*. Therefore, the withdrawals from the project wells, in conjunction with other withdrawals in the subbasin, are in accordance with the requirements of Section 6.I of the *GWP*.

The DRBC estimates that the project withdrawals, used for the purpose of irrigation, result in a consumptive use of 90 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-1988-066-4 below, Docket No. D-1988-066-3 is terminated and replaced by Docket No. D-1988-066-4.

II. The project as described in the Section A “Physical features” is approved pursuant to Section 3.8 of the *Compact* and is granted this withdrawal permit pursuant to Section 10.3 of the *Compact* and *GWPAR*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

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 wells shall not exceed 10.354 mgm or 124.25 mgy. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	WE INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MILLION GALLONS)
1	380	10.354
33	45	2.00

e. The wells shall be equipped with a readily accessible capped port and drop pipe 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 annually by June 30, to the PADEP. Withdrawal records 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 incorporate and implement reasonable conservation practices and measures consistent with efficient utilization of water resources.

i. 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.

j. 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 permit. 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* and the *GWPAR*.

k. 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.

l. 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.

m. If any information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing uses of ground or surface water, or if the docket holder receives a complaint by any existing ground or surface water users within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by any ground or surface users within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. The docket holder should direct phone call notifications of potential well or surface water interference or complaints of interference to the DRBC Project Review Section at 609-883-9500, extension 216. Oral notification must always be followed up in writing directed to the Executive Director. The docket holder shall provide the potentially impacted user(s) of wells or surface water supplies with copies of the correspondence submitted to the Commission. Any ground or surface water user which is substantially adversely affected, rendered dry or otherwise diminished as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder in accordance with Section's 2., 6.D., 10.B., and 13.A. of the *GWPAR*. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope

or sufficiency of such investigations, and the extent of appropriate mitigation measures, if required.

n. 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.

o. 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 non-essential 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.

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.

BY THE COMMISSION

APPROVAL DATE: December 10, 2014

EXPIRATION DATE: December 10, 2024