

DOCKET NO. D-2004-035-2

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**Bear Creek Management Company, LLC.
Groundwater and Surface Water Withdrawal
Longswamp Township, Berks County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by Keystone Engineering Group, Inc. on behalf of Bear Creek Management Company, LLC. (BCMC) to the Delaware River Basin Commission (DRBC or Commission) on March 18, 2014 for renewal of an allocation of groundwater and surface water and review of a groundwater and surface water withdrawal project (Application). The groundwater and surface water withdrawal project was approved by the Commission on January 19, 2005.

The Application was reviewed for continuation and approval under Section 3.8 of the *Delaware River Basin Compact*. The Berks County Planning Commission has been notified of pending action on this docket. 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 approve the renewal of an existing supply of groundwater and surface water to the docket holder's Bear Creek Mountain Resort and Conference Center for snowmaking and potable use from existing Wells Nos. 1, 2, 3, 4, 5 and 6, and a pond (Lower Pond). The total groundwater withdrawal from the six (6) on-site wells will remain at 11.37 million gallons per month (mgm). The total allocation of all sources will remain at 37.82 mgm. BCMC is not requesting an increase in groundwater or surface water withdrawal allocation from that contained in its prior approval.

2. **Location.** The project wells are completed in Precambrian Gneiss and are located in the Swabia Creek Watershed in Longswamp Township, Berks County, Pennsylvania. The Swabia Creek near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting High Quality-Cold Water Fishes (HQ-CWF) and Migratory Fishes (MF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The project withdrawals will be used to supply the docket holder's Bear Creek Mountain Resort and Conference Center for snowmaking and potable use only.

4. **Physical features.**

a. **Design criteria.** Bear Creek Mountain Resort and Conference Center is a winter sports complex featuring twenty-one (21) trails for skiing, snowboarding and snow tubing as well as lodge amenities and a conference center. The property consists of 335 acres with 86 acres of ski slopes.

Water demand for the facility is allocated to two (2) separate systems; potable water supply system and the snowmaking system. Potable water is supplied by groundwater using the existing Wells Nos. 1, 2, 3, 4, 5 and 6. Snowmaking is supplied using surface water stored in the Lower Pond. Occasionally, as additional water is required for snowmaking, Well No. 4 and treated wastewater effluent from the BCMC wastewater treatment plant are used as supplementary water to the Lower Pond if natural precipitation and snow melt is not adequate. The BCMC wastewater treatment plant (Docket No. D-2005-016-2) was approved by the Commission to discharge up to 0.035 mgd to the Lower Pond for snowmaking operations. Additionally, the Lower Pond is also feed by the Upper Pond which in turn is feed by the Gypsy Pond, the Triple Pond, and the storm water detention basin.

The average and maximum demand for potable water supply is 0.038 million gallons per day (mgd) and 0.364 mgd, respectively. The average and maximum demand for snowmaking operations is 1.162 mgd and 2.14 mgd, respectively. The total average and maximum demand for potable water supply and snowmaking operations is 1.2mgd and 2.504 mgd, respectively. The docket holder does not estimate an increase in average and maximum demand over the next ten years. The allocation of 37.82 mgm should be sufficient to meet the future demands of the BCMC system.

b. **Facilities.** The existing project wells and surface water intake have the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
1	300	50' / 6"	35	2004
2	300	60' / 6"	75	2004
3	Unknown	Unknown	0	Unknown
4	Unknown	Unknown	43	Unknown
5	300	33' / 8"	50	2003
6	300	52' / 8"	30	2004

Well No. 3 is currently not in operation but is reserved for possible future use.

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (MGD)	STORAGE CAPACITY (MG)	YEAR CONSTRUCTED
Lower Pond	Lower Pond	7.488	6.5	1968

Lower Pond: This impoundment was constructed in 1968. The storage capacity is approximately 6.5 million gallons (mg) and it is the primary source for snowmaking.

Upper Pond: This pond was constructed in 1972 and later enlarged in 2001 to provide a storage capacity of approximately 28 mg. This pond is used primarily for additional storage capacity for the Gypsy, Triple and Detention ponds. Flow from the Gypsy, Triple and Detention ponds is diverted to the Upper Pond when those ponds are full.

Gypsy Pond: This pond was constructed in 1972 and later expanded in 2001 to a storage capacity of 1.2 mg and excess flows are diverted to the Upper Pond. Most of the runoff and snowmelt from the ski mountain is directed to this pond.

Triple Pond: This pond was constructed in 2003 to retain runoff and snowmelt from the triple chair side of the ski mountain. The storage capacity of this pond is approximately 0.5 mg and excess flows are diverted to the Upper Pond.

Detention Basin: This basin has a storage capacity of approximately 1.0 mg and provides water to the Lower Pond for snowmaking. Excess flows from the basin are diverted to the Upper Pond.

All water service connections are metered.

All wells are metered.

Prior to entering the potable distribution system, the water is chlorinated and if necessary the pH is adjusted.

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

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

c. **Other.** Wastewater is conveyed to the BCMC sewage treatment facility most recently approved by DRBC Docket No. D-2005-016-2 on July 10, 2013. The PADEP issued its most recent Water Quality Management (WQM) Permit No. 0605408 on August 1, 2013 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

B. FINDINGS

Special Protection Waters

In 1992, the DRBC adopted Special Protection Waters 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 were 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.

On July 16, 2008, the DRBC approved amendments to its *Water Quality Regulations* that provide increased protection for waters that the Commission classifies as Special Protection Waters. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for Special Protection Waters designation and clarity on definitions and terms were updated for the entire program.

Article 3.10.3A.2.e.1). and 2). of the *Water Quality Regulations*, Administrative Manual - Part III, states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of Special Protection Waters must submit for approval a Non-Point Source Pollution Control Plan 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 Special Protection Waters. The wells and surface water intake providing water supply to BCMC are located within in the drainage area to the Special Protection Waters. Since this project does not entail additional construction and expansion of facilities or service areas (i.e., there aren't any new or increased non-point source loads associated with this approval), the non-point source pollution control plan requirement is not applicable at this time.

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 potable water supply and snowmaking operations, result in a consumptive use of 20 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*.

The docket holder shall pay for surface water in accordance with the provisions of *Administrative Manual Part III Basin Regulations – Water Charges*.

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.

C. DECISION

I. Effective on the approval date for Docket No. D-2004-035-2 below, Docket No. D-2004-035-1 is terminated and replaced by Docket No. D-2004-035-2.

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 the PADEP, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. Within 60 days (February 10, 2015), the docket holder shall provide written confirmation to the Commission that it has registered and reported with PADEP all surface and groundwater sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).

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 total groundwater withdrawal from the six (6) on-site wells will remain at 11.37 million gallons per month (mgm). The combined withdrawal from all sources shall not exceed 37.82 million gallons. No well or surface water intake shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MGM)
1	35	1.55
2	75	3.31
3	0 (currently)	0.93
4	43	1.92
5	50	2.23
6	30	1.34
Lower Pond Intake	650	27.5

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 docket holder shall pay for surface water use in accordance with *Administrative Manual – Part III Basin Regulations – Water Supply Charges*.

g. 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 PADEP annually and shall be available at any time to the Commission if requested by the Executive Director.

h. Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

i. The docket holder shall implement to the satisfaction of the PADEP, 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 PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

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

k. 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.

l. 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*.

m. 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.

n. 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.

o. If the monitoring required herein, or any other data or 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. In addition, the docket holder shall provide written notification to all potentially impacted users of wells or surface water supplies of the docket holder's responsibilities under this condition. 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. 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.

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.

BY THE COMMISSION

APPROVAL DATE: December 10, 2014

EXPIRATION DATE: December 10, 2024