

DOCKET NO. D-2014-007 CP-1

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**Aqua Pennsylvania, Inc. – Hawley System
Groundwater Withdrawal
Hawley Borough, Palmyra and Paupack Townships,
Wayne and Pike Counties, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by East Latitude, LLC on behalf of the Aqua Pennsylvania, Inc. (Aqua PA) to the Delaware River Basin Commission (DRBC or Commission) on March 18, 2014 for approval of an allocation of groundwater and review of a groundwater water withdrawal project (Application). The groundwater withdrawal project was approved by the Pennsylvania Department of Environmental Protection (PADEP) on November 22, 2010 (PADEP Permit No. 2640028).

The Application was reviewed for inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Wayne and Pike County Planning Commissions have 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 project is to approve of up to 6.0 million gallons per month (mgm) of water to the docket holder's public water supply distribution system from existing Wells Cawley, Fern St. and Red Shale.
- 2. Location.** The project wells are completed in the Catskill Formation and are located in the Wallenpaupack Creek Watershed, within the drainage area to the Upper Delaware Special Protection Waters, in Hawley Borough, Palmyra and Paupack Townships, Wayne and Pike Counties, Pennsylvania. The Wallenpaupack 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 docket holder’s water distribution system serves Hawley Borough, Palmyra and Paupack Townships, primarily in Wayne County, with a small portion on the opposite side of the Wallenpaupack Creek in Pike County, as shown on a map entitled “Service Area and Source Location Plan”, submitted with the 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. The Aqua PA – Hawley system currently serves water to approximately 1,800 customers on 514 domestic service connections and records an existing average and maximum water demand of 0.127 million gallons per day (mgd) and 0.156 mgd, respectively. The docket holder projects the 10-year average and maximum water demand to increase to 0.132 mgd and 0.193 mgd, respectively. The allocation of 6.0 mgm should be sufficient to meet the future demands of the Aqua PA – Hawley system.

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

WELL NO.	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY	YEAR DRILLED
Cawley	NA	NA	100 gpm	NA
Fern St.	NA	NA	125 gpm	NA
Red Shale	NA	NA	125 gpm	NA

The wells were installed prior to Aqua PA acquiring the system and construction records are not available.

All water service connections are metered.

All wells are metered.

Prior to entering the distribution system, the groundwater is treated by 4-log disinfection.

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 the Hawley Area Authority sewage treatment facility most recently approved by DRBC Docket No. D-1981-029 CP on November 20, 1981. The PADEP issued its most recent NPDES Permit No. PA0060330 on September 14, 2010 for

this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

d. **Relationship to the Comprehensive Plan.** Upon approval of this docket, this project is incorporated into the Comprehensive Plan.

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 (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 Special Protection Waters. The wells providing water supply to Aqua PA 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 NPSPCP 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. Accordingly, Special Condition II.u. has been included in the Decision section of this docket.

The docket holder estimates that the project withdrawals, used for the purpose of public water supply, 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*.

Water Audits for Public Water Supply Systems Serving Greater than 100,000 gpd

Section 2.1.8 of the Water Code states that it is the policy of the Commission to establish a standardized water audit methodology for owners of water supply systems serving the public to ensure accountability in the management of water resources. Voluntary Water Audits were encouraged for public water supply systems through December 31, 2011 (Section 2.1.8.B.). Effective January 1, 2012, the owners of each public water supply system are required to implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance (Section 2.1.8.C). Water audits shall be submitted annually to the Commission by March 31.

The DRBC estimates that the project withdrawals, used for the purpose of public water supply, 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*.

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-2014-007 CP-1 below:

a. The project and the appurtenant facilities described in the Section A “Physical features” shall be added to the Comprehensive Plan.

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.

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 6.0 million gallons. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM INSTANTANEOUS RATE (GPM)	MONTHLY ALLOCATION (MILLION GALLONS)
Cawley	100	1.720
Fern St.	125	3.30
Red Shale	125	1.93

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 annually by March 31, 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 continue to implement its Water Conservation Plan as approved by PADEP, and shall report to the PADEP on the actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

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 implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

k. In accordance with DRBC Resolutions No. 87-6 (Revised) and No. 2009-1, the docket holder shall continue to implement to the satisfaction of the PADEP, the systematic program to monitor and control leakage within the water supply system. The program shall at a minimum include: periodic surveys to monitor leakage, enumerate non-revenue water and determine the current status of system infrastructure; recommendations to monitor and control leakage; and a schedule for the implementation of such recommendations. The docket holder shall proceed expeditiously to correct leakages and unnecessary usage identified by the program.

l. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the Water Code, the docket holder shall implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding guidance. Water audits shall be submitted annually to the Commission by March 31.

m. 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.

n. The docket holder shall implement to the satisfaction of the PADEP, a 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.

o. 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.

p. The area served by this project is limited to the service area as described above. Any expansion beyond this area is subject to review in accordance with Section 3.8 of the *Compact*.

q. 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.

r. 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 right 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.

s. 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.

t. 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.

u. 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.

v. 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 nonessential 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.

w. 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