

DOCKET NO. D-1996-049-5

DELAWARE RIVER BASIN COMMISSION

**Southeastern Pennsylvania
Ground Water Protected Area**

**PEL Pharma, Inc. – Sellersville Facility
Groundwater Withdrawal
West Rockhill Township, Bucks County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on September 6, 2022 (Application) for renewal of an allocation of groundwater and review of a groundwater water withdrawal project.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Bucks County Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on February 8, 2023.

A. DESCRIPTION

1. Purpose. The purpose of this project is to renew the approval of an existing groundwater withdrawal with an increase in allocation from 2.3 million gallons per month (mgm) to 3.45 mgm of groundwater from Wells 2 and 3 for industrial processes, non-contact cooling and domestic use at the docket holder's Sellersville pharmaceutical manufacturing facility due to an increase in the projected future water demand.

2. Location. The project wells are completed in the Brunswick and Lockatong Formations in the East Branch Perkiomen Creek Watershed in West Rockhill Township, Bucks County, Pennsylvania. The East Branch Perkiomen Creek near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as Trout Stocking Fishes (TSF) and Migratory Fishes (MF).

Specific location information has been withheld for security reasons.

3. Area Served. The project wells will only serve the docket holder's Sellersville facility, located in West Rockhill Township, Bucks County, Pennsylvania as shown on a Site Location Map included in the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in Section C. DECISION of this docket.

4. **Design Criteria.** The present average and maximum water demand at the facility is 0.055 million gallons per day (mgd) (1.705 mgm) and 0.065 mgd (2.02 mgm), respectively. The 10-year projected water demands are estimated to increase to an average demand of 0.098 mgd (3.04 mgm) and a peak demand of 0.115 mgd (3.57 mgm). The docket holder is projecting an increase in production over the next 10 years which will require additional water to run the facility. The allocation of 3.45 mgm should be sufficient to meet the future demands of the docket holder's system.

Most of the water (approximately 60 percent) is used for industrial processes that include the use of purified water in the product formulation, cleaning, and boiler feed. The remainder of the water demand at the facility is split evenly between domestic/potable uses and non-contact cooling purposes.

The docket holder's Well 1 is no longer in operation and has been properly abandoned.

5. **Facilities.** The docket holder's existing wells have the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
2	300	300 / 6"	110	1965
3	347	347 / 6"	110	1965

All wells are metered.

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

Groundwater is treated by filtering, chlorination, softening, reverse osmosis, deionization, and heat sanitization prior to entering the distribution system.

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

6. **Other.** Wastewater is conveyed to the Pennridge Wastewater Treatment Authority sewage treatment facility which received approval most recently under Section 3.8 of the *Compact* by DRBC Docket No. D-2001-001 CP on May 31, 2002. The treatment facility is approved by PADEP NPDES Permit No. PA0020460. The treatment facility has adequate capacity to continue to receive wastewater from this project.

B. FINDINGS

1. Ground Water Protected Area

The project is located within the Southeastern Pennsylvania Ground Water Protected Area delineated by the DRBC pursuant to *Compact* Section 10.2. Historical use by the docket holder indicates the operation of this project will not create a local water shortage

Review and analysis of the application pursuant to Section 6.D. 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 are being utilized.
3. The withdrawal, in conjunction with other withdrawals in the applicable ground water basin, should not exceed withdrawal limits of the ground water 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 *GWPAR*. There have been no reported complaints of well interference since the original 1997 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 *GWPAR*.

The docket holder's facility is located in the East Branch Perkiomen - Mill Creek subbasin (Subbasin No. 50), where total net annual groundwater withdrawal (294.8 mgy) is less than the withdrawal limit set in Section 6.I of the *GWPAR* (961 mgy). The total annual groundwater allocation from these wells is limited to 41.4 mgy, a fraction of which may be returned to groundwater. However, even if no water from this project were returned to groundwater, the total net annual groundwater withdrawal from this subbasin would remain below the withdrawal limits set in Section 6.1 of the *GWPAR*. Therefore, the withdrawal from the docket holder's wells, in conjunction with other withdrawals in this subbasin, is in accordance with the requirements of Section 6.1 of the *GWPAR*.

2. Other Findings

The docket holder estimates that the project withdrawals, used for industrial processes non-contact cooling, and potable use at the facility, result in a consumptive use of 5 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 is designed to conform to the requirements of the *Water Code (WC)*, *Water Quality Regulations (WQR)* and *Ground Water Protected Area Regulations (GWPAR)* of the DRBC.

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

Effective on the approval date for Docket No. D-1996-049-5 below, Permit No. P-1996-049-4 is terminated and replaced by D-1996-049-5. The project and appurtenant facilities as described in in Section A.4. (Design Criteria) and A.5. (Facilities) are approved subject to the following conditions, pursuant to Section 3.8 of the *Compact*:

Monitoring and Reporting

1. The docket holder shall continue to report to the 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).

2. The project withdrawals shall be metered by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within 5 percent of actual flow. Meters or other methods of measurement shall be subject to approval and inspection by the PADEP as to the type, method, installation, maintenance, calibration, reading and accuracy. A record of biweekly 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.

3. 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.

Other Conditions

4. During any month, the combined withdrawal from all well sources shall not exceed 3.45 million gallons or 41.4 mgd. No well shall be pumped above the maximum rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGD)
2	110	3.45
3	110	3.45

*Based on a 24-Hour Average

5. Section 2.3.10 of the Commission's *Rules of Practice and Procedure (RPP)* (18 C.F.R. 401.41), limiting the Commission's approval to three years in the absence of an expenditure of substantial funds by the project sponsor in reliance on the approval, is hereby waived for good cause shown in accordance with Section 2.9.3 (18 C.F.R. 401.123) of the same regulations. This approval shall expire on the expiration date set forth below unless prior thereto the docket holder has applied to the Commission to renew or extend this approval.

6. The docket holder is responsible for timely submittal to the DRBC of a docket renewal application on the appropriate application form including the appropriate docket application filing fee (see 18 CFR 401.43) at least 6 months in advance of the docket expiration date set forth below. The docket holder will be subject to late filed renewal surcharges 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, 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.

7. The wells and operational records shall be available at all times for inspection by the DRBC.

8. The wells shall be operated at all times to comply with the requirements of the WC and WQR of the DRBC.

9. 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.

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

11. 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).

12. The docket holder shall implement to the satisfaction of the PADEP, a drought or other water supply emergency plan.

13. 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 *WQR* of the Commission.

14. 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.

15. 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*.

16. The docket holder shall be subject to applicable DRBC regulatory program fees, in accordance with duly adopted DRBC resolutions and/or regulations. (see 18 CFR 401.43).

17. This approval is transferable by request to the DRBC Executive Director provided that the project purpose and area served approved by the Commission in this docket will not be materially altered because of the change in project ownership. The request shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 CFR 401.35).

18. The docket holder shall request a name change of the entity to which this approval is issued if the name of the entity to which this approval is issued changes its name. The request for name change shall be submitted on the appropriate form and be accompanied by the appropriate fee (see 18 CFR 401.35).

19. 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 to ensure the proper control, use and management of the water resources of the Basin.

20. If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the docket holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the docket holder shall provide written notice to all potentially affected water users of the docket holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the docket holder's project withdrawal shall be repaired, replaced or mitigated at the docket holder's expense.** The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the docket holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement or mitigation.

21. 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.

22. 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: March 8, 2023

EXPIRATION DATE: March 8, 2033