

DOCKET NO. D-2012-006 CP-2

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**The College Golf Course at Delhi
Surface Water and Groundwater Withdrawal
Town of Delhi, Delaware County, New York**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on December 9, 2021 for renewal of an allocation of surface water and groundwater and review of a surface water and groundwater water withdrawal project (Application).

The Application was reviewed for continuation of this project in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Delaware County Planning Department 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 withdrawal of up to 6.975 million gallons per month (mgm) of surface water from the Little Delaware River for turf irrigation and a groundwater withdrawal of up to 0.300 mgm for potable water supply purposes

2. **Location.** The project is located in the West Branch Delaware River and Little Delaware River Watersheds, within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters, in the Town of Delhi, Delaware County, New York. The West Branch Delaware River and Little Delaware River are classified by the NYSDEC as Class C streams supporting trout (T).

Specific location information has been withheld for security reasons.

3. **Area Served.** Withdrawals will only be utilized for turf grass irrigation and potable water supply on the College Golf Course at Delhi Golf Course. To define Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION section of this docket.

4. Design Criteria. The docket holder withdraws surface water from Little Delaware River, a tributary to West Branch Delaware River, using three (3) existing pumps to irrigate its 18-hole public golf course. The total existing pump capacity is approximately 1,200 gpm. Water is pumped directly from the river and no storage ponds are present. Irrigation of the front nine is manually controlled except for hole 8 which is automatic. The back nine is automatic with field controllers set manually based on the needs of the turf. Normal irrigation rates are between 250 and 300 gallons per minute with a maximum pumping rate of approximately 550 gpm. The irrigation system is operated during the hours of 12 a.m. and 8:30 a.m. The docket holder reports the average and maximum daily irrigation demands of 0.175 million gallons per day (mgd) and 0.225 mgd, respectively. Total acreage on the golf course that requires irrigation is 32 acres of fairways, 2 acres of tees, and 2.5 acres of greens.

5. Facilities. The existing project intakes have the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
Little Delaware River Intake	Little Delaware River	1,200 gpm	2.4	n/a

Potable water supply to the SUNY Delhi Golf Course is supplied by an existing on-site groundwater well. Prior to entering the distribution system, the well water is chlorinated.

All withdrawals are metered.

Portions of the golf course including the surface water intake are in the flood hazard area. The golf course club house, well, and control building are not located in the flood hazard area.

6. Other. Wastewater from the golf course is conveyed to the Village of Delhi WWTP sewage treatment facility most recently approved by DRBC Docket No. D-2001-033 CP-4 on April 15, 2015. NYSDEC has issued SPDES Permit No. NY0020265 for this treatment facility. The treatment facility has adequate capacity to continue to receive wastewater from the project.

7. Relationship to the Comprehensive Plan. The project was previously included in the Comprehensive Plan by the Commission in Docket No D-2012-006 CP-1 approved on December 5, 2012. Issuance of this docket will continue the withdrawal project in the Comprehensive Plan.

B. FINDINGS

1. Special Protection Waters

In 1992, the DRBC amended its Water Quality Regulations (WQR) by the addition of regulations for the protection of Special Protection Waters (SPW), designed to maintain the quality of interstate waters where existing quality is better than the established stream quality objectives. As the result of its initial classifications and subsequent amendments, the Commission has designated the entire non-tidal main stem Delaware River from Hancock, New York to Trenton, New Jersey as SPW. DRBC's SPW regulations apply within the designated reaches and their drainage area.

The wells and surface water intakes providing water supply to the docket holder are located within the drainage area to SPW. Sections 3.10.3A.2.e.1) and 2) of the WQR state that projects subject to review under Section 3.8 of the Compact that are located within 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.

Since this project involves the renewal of an approval for existing activities and does not entail additional construction or expansion of facilities or create new or increased non-point source loads, the NPSPCP requirement is not applicable at this time. Condition C.22. of this docket provides that at such time, if ever, as additions to the area served by the docket holder's withdrawals are proposed, the docket holder will be required to demonstrate compliance with an approved NPSPCP in accordance with DRBC's SPW regulations.

2. Passby Flow

Using the United States Geologic Survey (USGS) Gage No. 0142250, located approximately 1.4 miles upstream from the withdrawal location, Commission staff have estimated the Q7-10 flow from the period of record from 1998 to 2011 to be 2.4 cfs (1.6 mgd). Withdrawals from Little Delaware River by the docket holder shall not result in the instantaneous stream flow in Little Delaware River to be less than 2.4 cfs (1.6 mgd) as measured at USGS Gage No. 01422500. Withdrawal rates by the docket holder shall be reduced as appropriate to ensure that the withdrawal rate would not reduce the instantaneous flow below 2.4 cfs as measured at USGS Gage No.01422500. Whenever the instantaneous stream flow in the Little Delaware River is 2.4 cfs (1.6 mgd) or less than this amount at USGS Gage No.01422500, no withdrawal shall be made and the entire natural stream flow must be allowed to pass. The pumps shall be shut off, not permitting any additional withdrawals from the Little Delaware River until the 24-hour mean stream flow as measured at USGS Gage No.01422500 is at least 2.8 cfs as described in Condition C.7 in the DECISION Section.

3. Other Findings

The DRBC estimates that the project withdrawals, used for the purpose of turf 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*

The project is designed to conform to the requirements of the *Water Code (WC)* and *Water Quality Regulations (WQR)* 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-2012-006 CP-2 below, the project described in Docket No. D-2012-006 CP-1 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2012-006 CP-2; Docket No. D-2012-006 CP-1 is terminated and replaced by Docket No. D-2012-006 CP-2; and the project and the appurtenant facilities described in in Section A.4. (Design Criteria) and A.5. (Facilities) shall be continued in the Comprehensive Plan. 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 satisfy annual withdrawal, capacity and conservation reporting requirements in the form and manner prescribed by NYSDEC's Division of Water in accordance with NYCRR Part 601.5(a).

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. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted for surface water withdrawals by the designated agency (NYSDEC) if maintenance of the 5 percent performance is not technically feasible or economically practicable. Meters or other methods of measurement shall be subject to approval and inspection by the NYSDEC as to the type, method, installation, maintenance, calibration, reading and accuracy. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the NYSDEC annually and shall be available at any time to the Commission if requested by the Executive Director.

Other Conditions

3. No source shall be pumped above the maximum rate and monthly allocation as indicated below:

SOURCE ID	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)
Little Delaware River Intake	1,200	6.975
Well	110	0.25

* Based on a 24-Hour Average

4. In accordance with 18 CFR 401.8. of the Commission's *Rules of Practice and Procedure (RPP)*, if at any future time the Project is changed substantially from the Project as described in this docket, it will be deemed to constitute a new and different project for the purposes of Article 11 of the Delaware River Basin Compact and will require Commission amendment of the Comprehensive Plan. In accordance with the same section of the RPP, whenever a change to the Project is made, the sponsor must advise the Executive Director, who will determine whether the change is deemed substantial for purposes of this provision.

5. Section 2.3.10 of the Commission's Rules of Practice and Procedure (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 project withdrawal withdrawals from Little Delaware River shall not result in the instantaneous stream flow in Little Delaware River to be less than 2.4 cfs (1.6 mgd) as measured at USGS Gage No. 01422500. Withdrawal rates shall be reduced as appropriate to ensure that the withdrawal rate would not reduce the instantaneous flow below 2.4 cfs as measured at USGS Gage No.01422500. Whenever the instantaneous stream flow in the Little Delaware River is 2.4 cfs (1.6 mgd) or less than this amount at USGS Gage No.01422500, no withdrawal shall be made and the entire natural stream flow must be allowed to pass.

8. The surface water intake and operational records shall be available at all times for inspection by the DRBC.

9. The surface water intake shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.

10. 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).

11. Sound practices of excavation, backfill and reseedling shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.

12. 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.

13. 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.

14. 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*.

15. 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).

16. 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 401.43).

17. 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 401.43).

18. 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.

19. 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.

20. 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.

21. For the duration of any drought emergency declared by either New York 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 New York, to the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

22. 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 Non-Point Source Pollution Control Plan (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.

23. 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