

DOCKET NO. D-1963-004 CP-3

DELAWARE RIVER BASIN COMMISSION

Located in Drainage Area to Special Protection Waters

**Town of Rockland
Roscoe-Rockland Water District and Livingston Manor Water District
Groundwater Withdrawal
Town of Rockland, Sullivan County, New York**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on June 5, 2023 for renewal of an allocation of groundwater and review of two existing groundwater water withdrawal projects serving the docket holder's Roscoe-Rockland and Livingston Manor Water Districts (Application). The groundwater withdrawal projects were approved by the New York State Department of Environmental Conservation (NYSDEC) on June 3, 1996 (Permit No. WSA#9365 for the Roscoe-Rockland Water District) and May 15, 1995 (Permit No. WSA#8771 for the Livingston Manor Water District).

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 Sullivan County Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on May 8, 2024.

A. DESCRIPTION

- Purpose.** The purpose of this docket is to renew the approval of an existing groundwater withdrawal to supply up to 5.0 million gallons per month (mgm) of water from Wells 1 and 2 for use in the Town of Rockland Roscoe-Rockland Water District and up to 12.0 mgm of water from two different wells, Wells 1 and 2 for use in the Town of Rockland Livingston Manor Water District.
- Location.** The two wells (Wells 1 and 2) that supply water to the Town of Rockland Roscoe-Rockland Water District and the two wells (Wells 1 and 2) that supply water to the Town of Rockland Livingston Manor Water District are screened in the glacial outwash deposits that overly the Upper Walton Formation in the Beaver Kill and Little Beaver Kill Watersheds, within

the drainage area of the Upper Delaware, which the Commission has classified as Special Protection Waters, in in the Town of Rockland, Sullivan County, New York. The Beaver Kill near the Roscoe-Rockland Water District sources is classified by the NYSDEC as a Class C(T) water body that supports trout populations. The Little Beaver Kill near the Livingston Manor Water District sources is classified by the NYSDEC as a Class B(T) water body that supports trout populations.

Specific location information has been withheld for security reasons.

3. Area Served. The Town of Rockland serves water to the Hamlets of Roscoe and Rockland (Roscoe-Rockland Water District) and Livingston Manor (Livingston Manor Water District). The service areas are outlined on two (2) maps entitled “Roscoe-Rockland Water District” and “Livingston Manor Water District” submitted with the previous 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 Town of Rockland’s Roscoe-Rockland Water District system currently serves water to approximately 1,000 persons on 220 domestic service connections and 50 commercial service connections and records an existing average and maximum water demand of 0.124 million gallons per day (mgd) and 0.169 mgd, respectively. The docket holder projects no increases in water demand over the next 10 years. The requested allocation of 5.0 mgm is greater than the estimated peak month use of 4.726 million gallons listed in the application and should therefore be sufficient to meet the future demands of the Roscoe-Rockland Water District.

The Town of Rockland’s Livingston Manor Water District system currently serves water to approximately 1,250 persons on 375 domestic service connections and 75 commercial service connections and records an existing average and maximum water demand of 0.217 million gallons per day (mgd) and 0.266 mgd, respectively. The docket holder projects no increase in water demand over the next 10 years. The requested allocation of 12.0 mgm is greater than the estimated peak month use of 7.602 million gallons listed in the application and therefore should be sufficient to meet the future demands of the Livingston Manor Water District.

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

WELL NO.	DEPTH	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY	YEAR DRILLED
1 (Roscoe-Rockland W.D.)	90'	Unknown / 16"	200 gpm	1995
2 (Roscoe-Rockland W.D.)	90'	Unknown / 16"	200 gpm	1995
1 (Livingston Manor W.D.)	60'	Unknown / 20"	550 gpm	1995
2 (Livingston Manor W.D.)	60'	Unknown / 20"	550 gpm	1995

All wells and water service connections are metered.

Prior to entering the distribution systems, water is treated with a sequestering agent for iron control and disinfected with chlorine.

The project wells are located outside the 100-year flood floodplain.

The Roscoe-Rockland and Livingston Manor Water Districts are separate systems and neither water supply system is presently interconnected with any other water distribution system.

6. **Other.** Wastewater from the Roscoe-Rockland Water District is conveyed to the Roscoe Sewage Treatment Plant which was most recently approved by DRBC Docket No. D-82-35 CP on February 26, 1986. The NYSDEC has issued SPDES Permit No. NY0034983 for this treatment facility. Wastewater from the Livingston Manor Water District is conveyed to the Livingston Manor sewage treatment facility most recently approved by DRBC Docket No. D-1985-028 CP-3 on June 10, 2015 and subsequently covered under the Administrative Agreement as OP-1985-028 CP-3. The NYSDEC issued SPDES Permit No. NY0025437 for this treatment facility. The treatment facilities have adequate capacity to continue to receive wastewater from the existing projects.

7. **Relationship to the Comprehensive Plan.** The projects were previously included in the Comprehensive Plan by the Commission in Docket No. D-1963-004 CP-2 approved on June 11, 2014. Issuance of this docket will continue the withdrawal projects 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 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.24. 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. 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 docket holder submitted their most recent Water Audit on February 22, 2024.

3. Other Findings

The docket holder requested to reduce the allocations previously approved in Docket No. D-1963-004 CP-2 due to the restructuring of project review fees.

Water audits submitted by the docket holder in February 2024 show losses of 72 percent and 51 percent of the total withdrawals for the Livingston Manor and Roscoe-Rockland Water Districts, respectively. The Town of Rockland's sources and service connections are metered and the source meters are inspected annually. Additionally, the Town of Rockland conducts regular leak detection activities including sonic listening devices and water usage monitoring. Previously, the high unbilled water amounts were believed to be from the use of bleeder valves and frequent flushing of portions of the water systems lines which is necessary to remove scale and particulates in the water. The docket holder indicated that they are currently in the process of obtaining funding for and land acquisition for an additional well site in the Roscoe-Rockland Water District to alleviate discolored water. Additionally, the Livingston Manor Water District has an older water tower which may potentially have a leak between the tower and the production site. The docket holder is currently in the process of obtaining funding and land acquisition to replace the current tower.

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 Basin Regulations-Water Supply Charges 18 C.F.R. 420.1(d).

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-1963-004 CP-3 below, the projects described in Docket No. D-1963-004 CP-2 are removed from the Comprehensive Plan to the extent that they are not included in Docket No. D-1963-004 CP-3; Docket No. D-1963-004 CP-2 is terminated and replaced by Docket No. D-1963-004 CP-3; and the projects and the appurtenant facilities described in in Section A.4. (Design Criteria) and A.5. (Facilities) shall be continued in the Comprehensive Plan. The projects 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. 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.
3. 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 NYSDEC, 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.
4. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the *Water Code (WC)*, 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.

Other Conditions

5. During any month, the combined withdrawal from the Roscoe-Rockland Water District well sources (Wells 1 and 2) shall not exceed 5.0 million gallons. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

TOWN OF ROCKLAND ROSCOE-ROCKLAND WATER DISTRICT		
WELL NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)
1	200 gpm	5.0 mgm
2	200 gpm	5.0 mgm

* Based on a 24-Hour Average

During any month, the combined withdrawal from the Livingston Manor Water District well sources (Wells 1 and 2) shall not exceed 12.0 million gallons. No well shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

TOWN OF ROCKLAND LIVINGSTON MANOR WATER DISTRICT		
WELL NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGM)
1	550 gpm	12.0 mgm
2	550 gpm	12.0 mgm

* Based on a 24-Hour Average

6. In accordance with 18 C.F.R. 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.

7. 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.

8. 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 C.F.R. 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 DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. If 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 pending the grant or denial of the application for docket approval.

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

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

11. The wells shall be equipped, where possible, with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes as repairs or modifications are made at each existing well so that water levels may be measured under all conditions.

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

13. 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).

14. 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.

15. 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.

16. 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*.

17. 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).

18. 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).

19. 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 C.F.R. 401.43).

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 complies with a DRBC approved NPSPCP.

25. 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:

EXPIRATION DATE: June 5, 2034

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