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DOCKET NO. D-2004-008-3

DELAWARE RIVER BASIN COMMISSION

**Southeastern Pennsylvania
Ground Water Protected Area**

**Delaware Valley Fish Company
Groundwater Withdrawal
Norristown Borough, Montgomery County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on August 24, 2023 (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 Montgomery 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

1. **Purpose.** The purpose of this project is to renew the approval of an existing groundwater withdrawal with a decrease in allocation from 5.89 million gallons per month (mgm) to 4.464 mgm to supply the docket holder's fish holding facility from existing Well DV-1.
2. **Location.** The project well is completed in the Stockton Formation in the Stony Creek Watershed in Norristown Borough, Montgomery County, Pennsylvania. Stony 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.** Well DV-1 will be only used to supply water to the docket holder's temporary fish holding facility. 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. **Design Criteria.** The docket holder’s facility uses groundwater from Well DV-1 to fill temporary tanks for the purpose of temporary fish holding. The average and maximum demand is 0.1224 million gallons per day (mgd) and 0.144 mgd, respectively. The docket holder does not project an increase in water demand by the year 2034. The allocation of 4.464 mgm should be sufficient to meet the future demands of the docket holder’s system.

Potable water for the facility is supplied by Pennsylvania American Water Company (PAWC) Norristown distribution system, which was most recently approved in Docket No. D-1966-100 CP-2 on September 14, 2016.

5. **Facilities.** The docket holder’s existing well has the following characteristics:

WELL NO.	DEPTH (FEET)	CASED DEPTH/ CASING DIAMETER	PUMP CAPACITY (GPM)	YEAR DRILLED
DV-1	408	40’/8”	100	2003

Well DV-1 is metered.

Well water is treated by aeration prior to entering the fish holding tanks.

The project facility is above the 100-year flood elevation.

The water system is presently interconnected with the PAWC Norristown distribution system.

6. **Other.** Discharge water from the tanks is conveyed to Stony Creek via a storm sewer. The PADEP did not require an NPDES Permit for this discharge.

B. FINDINGS

The docket holder operates a seafood business that involves the buying and selling of live eels. The eels are purchased from fishermen and transported live to the holding tanks at the facility where they are held for several days prior to being packed in ice and transported to buyers. No feeding or processing occurs at the facility. No domestic or other water supply wells are known to exist in the immediate vicinity of Well DV-1, and no adverse impacts have been reported from the usage of this well.

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 *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 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 Stony Creek subbasin (Subbasin No. 63), where total net annual groundwater withdrawal (45.865 mgy) is less than the withdrawal limit set in Section 6.I of the *GWPAR* (1,655 mgy). The total annual groundwater allocation from Well DV-1 is limited to 53.57 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 Well DV-1, 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 the purpose of filling fish holding tanks, result in a consumptive use of less than 1 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-2004-008-3 below, Docket No. D-2004-008-2 is terminated and replaced by D-2004-008-3. The project and appurtenant facilities as described 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.

Other Conditions

3. During any month, the withdrawal from Well DV-1 shall not exceed 4.464 million gallons or 53.57 mgd. Well DV-1 shall not be pumped above the maximum rate and monthly allocation as indicated below:

WELL NO.	MAXIMUM RATE (GPM)*	MONTHLY ALLOCATION (MGD)
DV-1	100	4.464

*Based on a 24-Hour Average

4. 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.

5. 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 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 against the docket holder pending the grant or denial of the application for docket approval.

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

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

8. The well 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.

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

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

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 *WQR* 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 401.35).

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 401.35).

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 in order 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. 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