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4/27/2022 7:43 AM

**DOCKET NO. D-1997-029 CP-5**

**DELAWARE RIVER BASIN COMMISSION**

**Located in Drainage Area to Special Protection Waters**

**Portland Borough Authority  
Ground Water Withdrawal**

**Upper Mount Bethel Township, Northampton County, Pennsylvania**

**PROCEEDINGS**

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on April 23, 2020 for renewal of an allocation of groundwater and review of expansion of area served (Application). The Pennsylvania Department of Environmental Protection (PADEP) public water supply permits issued for the (Docket Holder)'s water supply wells are as follows:

<b>WELL NO.</b>	<b>PADEP PERMIT NO.</b>	<b>PADEP APPROVAL DATE</b>
1	8453W	March 23, 1955
2	668W017	November 22, 1968
3	4897501	September 29, 1997
4	4810503	October 15, 2010

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 Lehigh Valley Planning Commission has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on May 11, 2022.

**A. DESCRIPTION**

**1. Purpose.** The purpose of this docket is to renew the approval of a total combined allocation of 12.4 million gallons per month (mgm) of groundwater from existing wells Nos. 1, 2, 3, and 4 for public water supply and approve an expansion of the area served that may extend the docket holder's water distribution system into additional areas of Upper Mount Bethel Township.

2. **Location.** The project wells are located in the Slateford Creek Watershed in Upper Mount Bethel Township, Northampton County, Pennsylvania. Wells Nos. 1, 2, and 4 are completed in the Martinsburg Formation. Well No. 3 is completed in Pleistocene Stratified Drift. The project is located within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters. Slateford Creek near the project site is designated by the PADEP as Exceptional Value supporting migratory fishes (EV, MF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The PBA currently serves water to the Borough of Portland, the Village of Slateford, the Town of Mount Bethel and intervening portions of Upper Mount Bethel Township. The docket holder plans to expand its area served into additional portions of Upper Mount Bethel Township including the Turkey Ridge Road Area, Mount Bethel Village Area, River Pointe Industrial Area and the Portland Power Plant Site. The existing service area and areas reasonably anticipated to be served within the next 10 years is outlined on a map entitled “Water Service Area Map” dated January 16, 2020, revised February 14, 2020 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. **Design criteria.** The system currently serves water to a population of 2,000 persons on 404 domestic, commercial, and industrial, service connections and records an existing average and maximum water demand of 0.086 million gallons per day (mgd) and 0.109 mgd, respectively. The docket holder projects the 10-year average and maximum water demand to increase to 0.480 mgd and 0.708 mgd, respectively. The docket holder projects a peak monthly demand to increase to 14.88 mgm. This demand is greater than the currently approved and requested allocation of 12.4 mgm. In its Application, the docket holder affirmed that additional sources of water supply may need to be developed or otherwise incorporated in the public water system to meet future demands. If additional sources are required in the future, the docket holder must submit a withdrawal application to DRBC to amend the Docket at that time (see Section C. DECISION Condition C.8.).

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

<b>WELL NO.</b>	<b>DEPTH (FEET)</b>	<b>CASED DEPTH/CASING DIAMETER</b>	<b>PUMP CAPACITY (GPM)</b>	<b>YEAR DRILLED</b>
1	500'	57'/10"	44 gpm	1954
2	800'	75'/16"	100 gpm	1964
3	69'	50'/12" Screened 48-68'	85 gpm	1997
4	650'	67'/8"	100 gpm	2010

All water service connections are metered.

All wells are metered.

Prior to entering the distribution system, the water is treated with sodium hypochlorite for disinfection and polyphosphate for manganese sequestration.

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

6. **Other.** Wastewater is conveyed to on-lot private septic systems and the Borough of Portland sewage treatment facility. Flows from Portland Borough and Portland Industrial Park are directed to the Borough of Portland sewage treatment facility most recently approved by DRBC Docket No. D-2003-009 CP-5 on September 11, 2019. The discharge is permitted by the PADEP in NPDES Permit No. PA0064297. The treatment facility has adequate capacity to continue to receive wastewater from the existing sewer service area. All other flows are directed to on-lot private septic systems.

7. **Relationship to the Comprehensive Plan.** The project was previously included in the Comprehensive Plan by the Commission in as follows:

DRBC Docket No.	Approval Date
D-68-170 CP	January 15, 1969
D-97-29 CP	January 28, 1998
D-1997-029 CP-3	December 8, 2010
D-1997-029 CP-4	May 11, 2011

**B. FINDINGS**

1. **Special Protection Waters**

In 1992, the DRBC adopted Special Protection Waters (SPW) requirements, as part of the DRBC *Water Quality Regulations (WQR)*, designed to protect existing 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 *WQR* 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 SPW 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 SPW must submit for approval a Non-Point Source Pollution Control Plan 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. The wells and service area are located within in the drainage area to the SPW. Since this project does entail additional construction and expansion of service areas, and there are new or increased non-point source loads associated with this approval, the non-point source pollution control plan requirement is applicable at this time. Accordingly, Special Condition C.27. has been included in the Decision section of this docket.

**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 March 8, 2022.

**3. Groundwater Level Monitoring**

Condition C.II.g. of Docket No. D-1997-029 CP-4 required the measurement and reporting of water levels to evaluate groundwater level fluctuations caused by seasonal changes and/or production well pumping, and to detect water level declines that may adversely affect the shallow aquifer in the Slateford Creek Watershed. Three years of water level data submitted by the docket holder to the Commission showed no discernible evidence of a decline in groundwater levels or a depletion of aquifer resources over the monitoring period. By letter dated January 7, 2015, the Executive Director approved the docket holder's request to discontinue water level monitoring. The approval was provisional, because withdrawal rates during the monitoring period were substantially lower than the approved allocation and required that monitoring promptly resume when the anticipated groundwater demand or actual combined groundwater withdrawals increase to in excess of 5.7 million gallons per 30 days. Condition C.3. in the Decision section of this docket requires that the previously approved monitoring program resume when the anticipated groundwater demand or actual combined groundwater withdrawals increase to in excess of 5.89 mgm.

#### 4. Other Findings

The docket holder plans to expand its area served into additional portions of Upper Mount Bethel Township including the Turkey Ridge Road Area, Mount Bethel Village Area, River Pointe Industrial Area and the Portland Power Plant Site. The water demand from this additional area is greater than the currently approved and requested allocation of 12.4 mgm. The docket holder affirmed that additional sources of water supply may need to be developed or otherwise incorporated in the public water system to meet future demands. Given these uncertainties, the Area Served expansion described in Section A.3. and approved by this docket does not prevent another entity from providing water service to these areas and such a proposal would not be discouraged by the DRBC in accordance with the Regionalization policy in DRBC Water Code Section 2.40.

The project is designed to conform to the requirements of the *Water Code (WC)* and *Water Quality Regulations (WQR)* of the DRBC.

The docket holder estimates that the project withdrawals, used for the purpose of public water supply, result in a consumptive use of 7 percent of the total water use. The docket holder estimates that the consumptive use will increase to 17 percent of the total water use following the future expansion of area served and increase in industrial 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

Effective on the approval date for Docket No. D-1997-029 CP-5 below, the project described in Docket No. D-1997-029 CP-4 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-1997-029 CP-5; Docket No. D-1997-029 CP-4 is terminated and replaced by Docket No. D-1997-029 CP-5; 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 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 daily 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 promptly resume the groundwater monitoring program as submitted by the docket holder in a letter dated March 2, 2011 and modified herein when the anticipated groundwater demand or actual combined groundwater withdrawals increase to greater than 5.89 mgm. This program will include the following:

- A. **Ground Water Level Monitoring** - Well Nos. E, 1, 2, 3 and Well No. 4 shall be measured to estimate annual groundwater fluctuations caused by seasonal changes and/or production well pumping and detect water level declines that may adversely affect the shallow aquifer in the Slateford Creek Watershed. Well Nos. 2, 3, and 4 shall be monitored by the same method as suggested for Well Nos. E and 1 in the letter dated March 2, 2011, with the exception that all the transducers shall be set to record water levels on an hourly basis and that data shall be downloaded at least quarterly and the electronic data shall be submitted to the Commission on an annual basis.
- B. **Reports** - All monitoring data, including records required in Condition C.2. herein shall be submitted to the Commission in an annual report beginning one month after the first year of monitoring. The docket holder is encouraged to submit the annual report electronically. The report shall be prepared by a hydrogeologist and shall assess the effects of well withdrawals on the local hydrogeologic system. This report shall include an evaluation of the monitoring data required by this docket approval and such information as deemed appropriate by the hydrogeologist or required by the Executive Director.
- C. The Executive Director may modify or extend the monitoring program or temporarily suspend or modify this docket at any time if review of the hydrologic data and/or any other information indicates such action is necessary or appropriate.

4. 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.

5. 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.

6. 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**

7. During any month, the combined withdrawal from all well sources shall not exceed 12.4 million gallons. No well shall be pumped above the maximum rate and monthly allocation as indicated below:

<b>WELL NO.</b>	<b>MAXIMUM RATE (GPM)*</b>	<b>MONTHLY ALLOCATION (MGM)</b>
1	44	1.90
2	100	4.32
3	85	3.67
4	100	4.32

\* Based on a 24-hour average

8. If additional sources are required in the future, the docket holder must submit a withdrawal application to DRBC to amend the Docket at that time.

9. 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.

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

11. The wells shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

12. 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.

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

14. 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).

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

16. 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.

17. 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.

18. 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.

19. 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*.

20. 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).

21. 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).

22. 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).

23. 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.

24. 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.

25. 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.

26. 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.

27. Prior to allowing connections from any new areas served 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 area served is in compliance with a DRBC approved NPSPCP.

28. 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 8, 2032**