

**DOCKET NO. D-1985-081-2**

**DELAWARE RIVER BASIN COMMISSION**

**Discharge to a Tributary of Special Protection Waters**

**Blue Ridge Real Estate Company  
Jack Frost Wastewater Treatment Plant  
Kidder Township, Carbon County, Pennsylvania**

**PROCEEDINGS**

This docket is issued in response to an application submitted to the Delaware River Basin Commission (DRBC or Commission) on December 24, 2018 (Application), for the adjustment of the docket holder's existing service area and renew the approval of the Jack Frost wastewater treatment plant (WWTP) and its discharge. National Pollutant Discharge Elimination System (NPDES) Permit No. PA0034118 for this discharge was issued by the Pennsylvania Department of Environmental Protection (PADEP) on October 25, 2012. The PADEP issued approval of the docket holder's proposed revision of its service area and Act 537 Planning on February 19, 2019.

The application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Planning Commission have been notified of pending action. A public hearing on this project was held by the DRBC on May 15, 2019.

**A. DESCRIPTION**

**1. Purpose.** The purpose of this docket is to approve the proposed revision to the docket holder's existing service area and renew the approval of the 0.4 million gallons per day (mgd) Jack Frost WWTP and its discharge. The docket holder's proposed service area revision will include the partial removal of existing service area and the addition of area with equivalent acreage to offset and maintain the docket holder's existing total acres served.

**2. Location.** The docket holder's Jack Frost WWTP is located at the Western boundary of the Snow Ridge Development on Jack Frost Way in Kidder Township, Carbon County, Pennsylvania. The WWTP will continue to discharge treated effluent to Porter Run, upstream of the F.E. Walter Reservoir, at River Mile 183.66 – 82.9 – 1.5 (Delaware River – Lehigh River – Porter Run) via Outfall No. 001, within the drainage area to the Lower Delaware Special Protection Waters (SPW).

The Jack Frost WWTP outfall is located in the Lower Delaware SPW Watershed as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	41° 6' 12"	75° 39' 53"

**3. Area Served.** The docket holder's Jack Frost WWTP will continue to serve the Jack Frost Ski Area, Jack Frost National Golf course, Snow Ridge area and appurtenant existing ski area facilities, resort, country club and residential areas. Furthermore, the docket holder will serve 3 lots outlined along PA-940 for intended development and existing warehouse locations. Areas served by the Jack Frost WWTP are located within Kidder Township, Carbon County, Pennsylvania.

For the purpose of defining the Area Served, Section B (Type of Discharge) and D (Service Area) of the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

**4. Design Criteria.** The docket holder's existing 0.4 mgd WWTP utilizes a complete mix activated sludge treatment process with chlorination disinfection. The proposed revision in the docket holder's existing service area will include the removal of 285 acres of the existing service area and the addition of 285 acres of along PA-940, outlined as 3 separate lots. The WWTP will utilize an existing force main and gravity sewer line connected to WWTP and proposed service area. The total acreage to be added and removed from the existing service area are proposed to offset; therefore, the WWTP will not increase its total amount of acres served.

**5. Facilities.** The WWTP facilities consist of comminutors, an aerated equalization tank, 4 bio-reactor units. Effluent from the bio-reactor units flow to a tertiary treatment process, the WWTP implements flash mixing with a chemical feed system, 2 flocculation units, and 2 tray settlers. The disinfection system utilizes a chlorine contact tank, de-chlorination and post aeration, a multi-cell sand filter with an automatic backwash system. Wasted sludge from the tray settler units is recycled or directed to a sludge holding unit.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available standby power. The existing WWTP has a generator installed capable of providing standby power.

The docket holder's wastewater treatment facility is not staffed 24 hours per day and shall have a remote alarm system that continuously monitors plant operations in accordance with the Commission's SPW requirements. The docket holder is required as part of the continued discharge to install remote alarm systems (See DECISION Condition C.2).

The docket holder has not prepared and implemented an emergency management plan (EMP) for the existing WWTP in accordance with Commission SPW requirements. The docket holder is required as part of this docket approval to prepare and implement an EMP within 6 months of approval of this docket (See DECISION Condition C.2).

The project facilities are not located in the 100-year floodplain.

Wasted sludge will continue to be hauled off-site by a licensed hauler for disposal at a state approved facility.

**6. Water withdrawals.** The potable water supply in the project service area is provided by the docket holder. The docket holder's withdrawal is described in detail in Docket No. D-1991-046- approved on June 11, 2014.

**7. NPDES Permit / DRBC Effluent Requirements.** NPDES Permit No. PA0034118 was issued by the PADEP on October 25, 2012 and includes final effluent limitations for the project discharge to surface waters classified by the PADEP as supporting protection for high quality water (HQ) and cold water fishes (CWF). EFFLUENT TABLES C-1 & C-2 included in the DECISION section of this docket, contain effluent requirements for DRBC parameters that must be met as a condition of this approval (See DECISION Condition C.1.). Effluent requirements for Outfall No. 001 are based on a discharge rate of 0.40 mgd.

## **B. FINDINGS**

The purpose of this docket is to renew the docket holder's existing 0.4 mgd Jack Frost WWTP and to approve a modification of its service area. The proposed revision in the docket holder's existing service area will include the removal of 285 acres of the existing service area and the addition of 285 acres of along PA-940, outlined as 3 separate lots. The WWTP will utilize an existing force main and gravity sewer line connected to WWTP and proposed service area. The 285-acre portion of the existing service area along the Lehigh River and Tobyhanna Creek is referred to as 'Area A'. The proposed service region will consist of 3 lots along PA-940, referred to as 'Area B'; the lot areas are defined in the table below:

### **Proposed Jack Frost WWTP Added Service Area 'AREA B':**

Area Served	Acres
Lot 1	196
Lot 2	74
Lot 3	15
Total	285

The proposed area will utilize an existing force gravity main and sewer line extended for connection to the Jack Frost WWTP. Lot 1 and Lot 2 are intended to be utilized for commercial and non-process industrial purposes. Lot 3 is not intended for development at this time. The planned revision to existing service area is not proposed to modify or increase the existing 0.40 mgd Jack Frost WWTP.

### **1. Special Protection Waters**

On July 16, 2008, the DRBC approved amendments to its *Water Quality Regulations (WQR)* that provide increased protection for waters that the Commission classifies as SPW. 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.

The docket holder's WWTP discharges to the drainage area to the Lower Delaware SPW. The docket holder's WWTP discharge is required to comply with the SPW requirements, as outlined in Article 3.10.3A.2. of the *WQR*.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* 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 (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. The service area of the docket holder is in the drainage area to the SPW. Future development within the docket holder's proposed revised service area may result in future increases in non-point sources and may entail additional construction, within the service area. Therefore, the NPSPCP requirement may be applicable to any additional construction or expansion associated with future development within associated with the revised service area. Accordingly, DECISION Condition C.6. has been included in this docket.

Kidder Township is regulated by the PADEP as a Stormwater Phase II municipality and is permitted by PADEP as such. Kidder Township adopted and implemented a stormwater ordinance as its "Stormwater Management Requirement" in accordance with the PADEP requirements. The PADEP Stormwater Phase II requirements satisfy the NPSPCP requirements of the Commission.

## **2. Other**

At the WWTP discharge location, Porter Run has an estimated seven-day low flow with a recurrence interval of ten years ( $Q_{7-10}$ ) of less than 0.1 cubic feet per second (cfs) and therefore is classified by the Commission as an intermittent stream.

The nearest surface water intake of record for public water supply is located on the Lehigh River approximately 70 River Miles downstream of the docket holder's WWTP and is operated by Hazelton City Authority.

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.

The effluent limits in the NPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *Water Quality Regulations (WQR)*.

### **C. DECISION**

Effective on the approval date for Docket No. D-1985-081-2 below, Docket No. D-1985-081-1 is terminated and replaced by Docket No. D-1985-081-2. The project and appurtenant facilities as described in Section A “DESCRIPTION” of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

#### **Monitoring and Reporting**

1. The docket holder shall comply with the requirements contained in the EFFLUENT TABLES below. The docket holder shall submit the required monitoring results electronically to the DRBC Project Review Section via email [aemr@drbc.state.nj.us](mailto:aemr@drbc.state.nj.us) on the **Annual Effluent Monitoring Report Form** located at this web address: <http://www.state.nj.us/drbc/programs/project/pr/info.html>. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations. The following average monthly effluent limits are among those listed in the NPDES Permit and meet or are more stringent than the effluent requirements of the DRBC.

**EFFLUENT TABLE C-1: DRBC Parameters Included in NPDES Permit**

<b>OUTFALL 001 (Discharging to Porter Run)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Dissolved Oxygen	7.0 (minimum at all times)	As required by NPDES Permit
Total Suspended Solids	30 mg/l	As required by NPDES Permit
CBOD <sub>5</sub> (at 20° C)	25 mg/l	As required by NPDES Permit
Ammonia Nitrogen (5-1 to 10-31)	2.5 mg/l	As required by NPDES Permit
(11-1 to 4-30)	7.5 mg/l	
Fecal Coliform (5-1 to 9-30)	200 colonies per 100 ml as a geo. avg.	As required by NPDES Permit
(10-1 to 4-30)	2000 colonies per 100 ml as a geo. avg.	

The following monitoring requirements and average monthly effluent limits are for DRBC parameters not listed in the NPDES Permit.

**EFFLUENT TABLE C-2: DRBC Parameters Not Included in NPDES Permit**

<b>OUTFALL 001 (Discharging to Porter Run)</b>		
<b>PARAMETER</b>	<b>LIMIT</b>	<b>MONITORING</b>
Total Dissolved Solids*	Monitor & Report	One Per Quarter *
CBOD <sub>5</sub> (at 20° C)	Monitor & Report Influent and Percent Removal	Monthly, paired with CBOD <sub>5</sub> effluent monitoring sample

\* See DECISION Condition C.9

### **Other Conditions**

2. The docket holder shall install remote alarm controls and prepare an emergency management plan (EMP) within 6 months of docket approval or upon the acceptance of the proposed revised service area, whichever occurs first. The docket holder shall submit the EMP and certify in writing to the Commission that it has complied with this condition by December 31, 2019.

3. Nothing in this docket constitutes a defense to any penalty action for past conduct of the docket holder or ongoing activity not authorized by this approval. In particular, renewal of this docket does not resolve violations – whether in the past or continuing – of provisions of the Delaware River Basin Compact (“Compact”) or any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the Compact. The Commission reserves its right to take appropriate enforcement action against the docket holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the Compact, for any and all such prior or continuing violations.

4. 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 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

5. Prior to the docket holder initiating any substantial alterations or additions to the existing WWTP as defined in Section 3.10.3A2.a.16) of the Commission’s WQR, an application must be submitted and approved by the Commission. Such an application shall be submitted prior to final design to ensure that the Commission can provide the docket holder with draft effluent limitations for SPW specific parameters as guidance for design as to not require duplication of work or cause a substantial expenditure of public funds without Commission approval. The docket holder is encouraged to contact the Commission staff during the planning stages to identify the potential effluent limitations required to meet the no measurable change parameters under SPW. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

6. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.
7. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.
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 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.
9. The docket holder is permitted to treat and discharge wastewater as set forth in the Area Served Section of this docket, which incorporates by reference Sections B (Type of Discharge) and D (Service Area) of the docket holder's Application to the extent consistent with all other conditions of this DECISION Section.
10. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.
11. The facility and operational records shall be available at all times for inspection by the DRBC.
12. The facility shall be operated at all times to comply with the requirements of the Commission's WQR.
13. If at any time the receiving treatment plant proves unable to produce an effluent that is consistent with the requirements of this docket approval, no further connections shall be permitted until the deficiency is remedied.
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 shall discharge wastewater in such a manner as to avoid injury or damage to fish or wildlife and shall avoid any injury to public or private property.
- 16.** No sewer 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).
- 17.** The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.
- 18.** 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).
- 19.** 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).
- 20.** 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).
- 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: June 12, 2019**

**EXPIRATION DATE: June 30, 2024**