

DOCKET NO. D-2018-010-1

DELAWARE RIVER BASIN COMMISSION

**Berkshire Country Club
Surface Water Withdrawal
Bern Township, Berks County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on November 21, 2018 for approval of an allocation of surface water and review of a surface water withdrawal project (Application).

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Berks 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 15, 2019.

A. DESCRIPTION

1. Purpose. The purpose of this project is for approval of an existing surface water withdrawal and to approve a withdrawal allocation to supply up to 9.3 million gallons per month (mgm) of water for irrigation on the docket holder's golf course from existing surface water Intake 001 on the Schuylkill River.

2. Location. Surface water Intake 001 is located in the Schuylkill River Watershed in Bern Township, Berks County, Pennsylvania. The Schuylkill River near the project site is designated by the Pennsylvania Department of Environmental Protection (PADEP) as supporting Warm Water Fishes (WWF) and Migratory Fishes (MF).

Specific location information has been withheld for security reasons.

3. Area Served. The project withdrawals will only be used to supply water to the docket holder's golf course irrigation system. 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 surface water withdrawal from the Schuylkill River provides irrigation water for the docket holder's golf course. The golf course consists of approximately 121.57 acres including 24.86 acres of fairways, 1.78 acres of tees and 1.72 acres of greens. During the irrigation season the docket holder records an existing average and maximum water demand of 0.018 million gallons per day (mgd) and 0.432 mgd, respectively. The docket holder projects an average and maximum water demand of 0.300 mgd and 0.432 mgd, respectively, by the year 2029. The allocation of 9.3 mgm should be sufficient to meet the future demands of the golf course.

The clubhouse and on-site facilities are served potable water by the Reading Area Water Authority (RAWA).

5. **Facilities.** The existing surface water intake has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (GPM)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
001	Schuylkill River	300	156	1971

The surface water intake is metered.

Prior to entering the distribution system, the water is not treated.

The project facilities are above the 100-year flood elevation.

The irrigation system is presently not interconnected with any public water supply distribution systems.

6. **Other.** Wastewater is conveyed to an on-site septic system and the RAWA sewage treatment facility most recently approved by DRBC Docket No. D-2010-009 CP-2 on December 9, 2015. The PADEP issued its most recent NPDES Permit No. PA0051781 Amendment No. 1 on February 12, 2014 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the project.

B. FINDINGS

1. Passby Flow

The docket holder's surface water withdrawal is subject to a pass-by flow requirement. The estimated contributing drainage area to Schuylkill River above the docket holder's surface water intake is approximately 657 square miles. The estimated seven-day low flow with a recurrence interval of 10 years (Q_{7-10}) at the withdrawal location is 156 cubic feet per second (cfs) or 101 mgd. The drainage area and low flow statistic at the withdrawal location were calculated using the United States Geologic Survey (USGS) StreamStats V.4.2.1.

Staff determined that the existing USGS gaging station No. 01470500 located on the Schuylkill River at Berne, Pennsylvania could be used as a reference gage for pass-by flow monitoring. This stream gage is located approximately 16 miles upstream of the project withdrawal and is not affected by contributing flows from either the Tulpehocken Creek or Maiden Creek. The estimated Q_{7-10} low flow characteristic for this gage was computed to be 84.4 cfs (Stuckey, 2006). Discharge data for this gage is available from the USGS website.

When withdrawing from the Schuylkill River, the docket holder must observe streamflow as measured at the USGS gaging station (USGS No. 01470500) located on the Schuylkill River at Berne, Pennsylvania. Records of these observations must be maintained by the docket holder and made available to the Commission upon request. The docket holder must cease all withdrawals from the Schuylkill River when streamflow as measured at this gaging station is equal to or less than 85.1 cfs. Once restricted, no withdrawals shall be made until the streamflow is equal to or exceeds 85.1 cfs.

2. Surface Water Charges

The docket holder shall pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended as described in Condition C.3. in the DECISION section.

3. Other Findings

The DRBC estimates that the project withdrawals, used for the purpose of golf course irrigation, result in a consumptive use of 90 percent of the total water use. The DRBC definition of consumptive use is defined in 18 CFR Part 420.1(d) of the *Basin Regulations – Water Supply Charges*.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* 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-2018-010-1 below, 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. When withdrawing from the Schuylkill River, the docket holder shall, on a daily basis, collect and record streamflow as measured at the USGS gaging station (USGS No. 01470500) located on the Schuylkill River at Berne, Pennsylvania. These records shall be maintained by the docket holder and shall be available at any time to the Commission upon request.

2. The docket holder shall cease all withdrawals from the Schuylkill River when streamflow as measured by the USGS gaging station (USGS No. 01470500) is equal to or less than 85.1 cfs. Once restricted, no withdrawals shall be made until the streamflow is equal to or exceeds 85.1 cfs.

3. The docket holder shall pay for surface water use in accordance with *Administrative Manual – Part III Basin Regulations – Water Supply Charges 18 CFR Part 420*.

4. The docket holder shall continue to implement its Water Conservation Plan as approved by PADEP, and shall report to the PADEP on actions taken pursuant to this program and the impact of those actions as requested by the PADEP.

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 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.

Other Conditions

6. During any month, the combined withdrawal from the surface water intake sources shall not exceed 9.3 million gallons. The intake shall not be pumped above the maximum rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM RATE (GPM)	MONTHLY ALLOCATION (MGM)
001	300	9.3

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

8. The surface water intake shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

9. 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 (PADEP) 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 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.

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

11. 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).

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

13. 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.

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 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*.

16. 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).

17. 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).

18. 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).

19. 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 insure the proper control, use and management of the water resources of the Basin.

20. 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.

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:

EXPIRATION DATE: June 12, 2029

DRAFT