

DOCKET NO. D-2003-009 CP-6

DELAWARE RIVER BASIN COMMISSION

Discharge to Special Protection Waters

**Borough of Portland
Wastewater Treatment Plant
Borough of Portland, Northampton County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an application submitted to the Delaware River Basin Commission (DRBC or Commission) by Van Cleef Engineering Associates on behalf of the Borough of Portland (docket holder), on October 27, 2023, for renewal of the docket holder's existing wastewater treatment plant (WWTP) and its discharge. The Pennsylvania Department of Environmental Protection (PADEP) issued National Pollutant Discharge Elimination System (NPDES) Permit No. PA0064297 for this discharge.

The application was reviewed for continuation of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact*. The Lehigh Valley Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on August 7, 2024.

A. DESCRIPTION

- Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 0.105 million gallons per day (mgd) WWTP and its discharge.
- Location.** The docket holder's WWTP is located on Demi Road in the Portland Industrial Park in the Borough of Portland, Northampton County, Pennsylvania. The WWTP will continue to discharge treated effluent to the Delaware River at River Mile 206.9, which is located in the Lower Delaware Special Protection Water (SPW) area and has been classified as Significant Resource Waters (SRW).

The location of the WWTP outfall in the Delaware River Watershed is as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	40° 55' 04"	75° 05' 16"

3. **Area Served.** The docket holder's WWTP will continue to serve Portland Borough and the Portland Industrial Park (PIP) located in Portland Borough and Upper Mount Bethel Township. Both municipalities are located in Northampton County, Pennsylvania. For the purpose of defining the Area Served, the Type of Discharge and the Service Area sections from the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in Section C. DECISION of this docket.

4. **Design Criteria.** The docket holder's 0.105 mgd WWTP utilizes a membrane bioreactor (MBR) and ultra-filtration treatment system with ultraviolet light (UV) disinfection.

5. **Facilities.** The WWTP facilities consist of two fine screens, a grit removal unit, an MBR treatment/ultrafiltration system that features a two-basin aeration zone and a two-basin anoxic zone, the addition of aluminum sulfate for phosphorus removal, and a UV disinfection unit. Sludge handling consists of an aerobic digester and reed dewatering beds.

The docket holder's WWTP 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 WWTP 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 existing WWTP has a SCADA alarm system installed that continuously monitors plant operations.

The docket holder has prepared and implemented an emergency management plan (EMP) for the existing WWTP in accordance with Commission SPW requirements.

The docket holder's existing WWTP is a direct discharger to SRW and upon initial construction was required to provide "Best Demonstrable Technology" (BDT) as a minimum level of treatment in accordance with the Commission's SPW requirements.

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

Wasted sludge is applied to reed drying beds located at the facility. Periodically, the reed beds are cleaned out and the waste material is hauled off-site by a licensed hauler for disposal at a state approved facility in accordance with the NPDES Permit No. PA0064297.

6. **Water Withdrawals.** The potable water supply in the project service area is provided by groundwater wells owned and operated by the docket holder. The water withdrawal is described in detail in Docket No. D-1997-029 CP-4, which was approved on May 11, 2011.

7. **NPDES Permit / DRBC Effluent Requirements.** NPDES Permit No. PA0064297 issued by the PADEP includes final effluent limitations for the project discharge to surface waters classified by the PADEP as supporting migratory fishes (MF) and warm water fishes (WWF). EFFLUENT TABLE C-1 included in Section C. DECISION condition C.1. of this docket, contains effluent requirements for DRBC parameters that must be met as a condition of this approval. Effluent requirements for Outfall No. 001 are based on a discharge rate of 0.105 mgd.

8. **Relationship to the Comprehensive Plan.** The existing WWTP was included in the Comprehensive Plan by Docket No. D-2003-009 CP-1 on January 19, 2005. The WWTP approval was renewed and/or modified by Docket Nos. D-2003-009 CP-2, D-2003-009 CP-3, D-2003-009 CP-4, and D-2003-009 CP-5 which were approved on July 18, 2007, July 15, 2009, December 10, 2014, and August 14, 2019, respectively. Issuance of this docket will continue the WWTP and its discharge in the Comprehensive Plan.

B. FINDINGS

The docket holder applied to renew approval of their existing 0.105 mgd WWTP and its discharge.

1. Special Protection Waters

In 1992, the DRBC adopted 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 has been 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 *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 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 located in the drainage area to the SPW.

As noted above in A.3., the docket holder's area served is located entirely in Portland Borough and Upper Mount Bethel Township. These municipalities have enacted and are actively implementing non-point source/stormwater control ordinances by adopting the Martins-Jacoby Creek Watershed and Delaware River Sub-Basins Act 167 Stormwater Management Plan. Compliance with the Martins-Jacoby Creek Watershed and Delaware River Sub-Basins Act 167 Stormwater Management Plan, approved by the PADEP on December 3, 2010, and the Borough of Portland Ordinance No. 2007-2, enacted October 1, 2007, and Upper Mount Bethel Township Ordinance No. 2007-02, adopted April 9, 2007, generally meet the requirements of Article 3.10.3.A.2.e.1 of the Commission's Water Quality Regulations for the Area Served as described in A.3. above within the Borough of Portland and Upper Mount Bethel Township. Prior to allowing connections from any new service areas or any new developments not in compliance with these Ordinances, the docket holder shall 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.

2. Other

At the docket holder's WWTP discharge, the Delaware River has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 635 mgd (982 cfs). The ratio of this low flow to the hydraulic design wastewater discharge rate from the 0.105 mgd WWTP is approximately 6,048 to 1.

The nearest surface water intake of record for public water supply is located on the Delaware River approximately 22 River Miles downstream of the docket holder's WWTP and is operated by the City of Easton.

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 conform with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge that meets 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-2003-009 CP-6 below, the project(s) described in Docket No. D-2003-009 CP-5 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2003-009 CP-6; Docket No. D-2003-009 CP-5 is terminated and replaced by Docket No. D-2003-009 CP-6; and the project and the appurtenant facilities described in Section A “DESCRIPTION” of this docket shall be included in the Comprehensive Plan. The project and appurtenant facilities as described in Section A 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.gov on the **Annual Effluent Monitoring Report Form** located at this web address: <https://www.nj.gov/drbc/programs/project/docket-app-info.html#3>. 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

OUTFALL 001 (Delaware River)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	10 mg/l	As required by NPDES Permit
Dissolved Oxygen	6.0 mg/l (minimum at all times)	As required by NPDES Permit
CBOD ₅ (at 20° C)	10 mg/l (85% minimum removal)	As required by NPDES Permit
CBOD ₅ (at 20° C) Influent	Monitor & Report Percent Removal	As required by NPDES Permit
Ammonia Nitrogen	1.5 mg/l	As required by NPDES Permit
Total Nitrogen	10 mg/l	As required by NPDES Permit
Fecal Coliform	50 colonies per 100 ml as a geo. avg.	As required by NPDES Permit
Total Phosphorus	2.0 mg/l	As required by NPDES Permit
Total Dissolved Solids*	1,000 mg/l (instant. maximum)*	As required by NPDES Permit
Nitrate-Nitrite as N	Monitor & Report	As required by NPDES Permit
Total Kjeldahl Nitrogen	Monitor & Report	As required by NPDES Permit

* See DECISION Condition C.6

Other Conditions

2. 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.
3. Prior to allowing connections from any new service areas or any new developments not in compliance with the Ordinances described in Section B.1. above, the docket holder shall 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.
4. 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.
5. 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. The docket holder may request in writing, for approval from the Executive Director for 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.
7. Section 2.3.10 of the Commission’s *Rules of Practice and Procedure (RPP)* (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 docket holder is permitted to treat and discharge wastewater as set forth in the Area Served Section of this docket, which incorporates by reference the Type of Discharge and Service Area sections of the docket holder's Application to the extent consistent with all other conditions of this section. Any expansion beyond that included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the Compact.

10. In accordance with the Commission's regulations at 18 C.F.R. Part 440, the docket holder is prohibited from discharging wastewater from high volume hydraulic fracturing ("HVHF") or HVHF-related activities to waters or land within the Basin. The docket holder is further prohibited from discharging hydraulic fracturing wastewater, whether treated or untreated, from sources within or outside the Basin, without obtaining the Commission's prior review and express approval in the form of a revised docket. Violation of this or any condition of this docket approval may result in enforcement, including the risk of financial penalties, pursuant to Section 14.17 of the Delaware River Basin Compact and Section 2.7.8 (18 CFR 401.98) of the Commission's Rules of Practice and Procedure.

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, 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 C.F.R. 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 C.F.R. 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 C.F.R. 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 (RPP)*. 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: September 5, 2024

EXPIRATION DATE: September 30, 2029