

DOCKET NO. D-1985-025-5

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**Blue Ridge Real Estate Company
Big Boulder 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 August 10, 2021 (Application), for renewal of the docket holder's existing Big Boulder wastewater treatment plant (WWTP) and its discharge. National Pollutant Discharge Elimination System (NPDES) Permit No. PA0061182 for this facility was issued by the Pennsylvania Department of Environmental Protection (PADEP). PADEP issued Water Quality Management (WQM) Permit 1308404.

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 Regional Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on August 10, 2022.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to renew approval of the docket holder's existing 0.225 million gallons per day (mgd) WWTP and its discharge. This docket continues the Commission's previous approval from Docket No. D-1985-025-4, to expand the facility to 0.265 mgd and discharge the first 0.04 mgd of treated effluent to land via absorption beds.

2. Location. The WWTP discharge will continue to discharge treated effluent to an Unnamed Tributary of Tunkhannock Creek at River Mile 183.66 – 83.5 – 5.6 – 2.5 – 0.94 (Delaware River – Lehigh River – Tobyhanna Creek – Tunkhannock Creek – UNT Tunkhannock Creek) via Outfall No. 001, within the drainage area to the Lower Delaware Special Protection Waters (SPW), in the Kidder Township, Carbon County, Pennsylvania as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	41° 2' 43"	75° 34' 48"

3. **Area Served.** The docket holder's WWTP will continue to serve the on-site industry located in 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 existing 0.225 mgd WWTP utilizes an extended aeration activated sludge treatment process with chlorine disinfection. The proposed modifications and expansion to 0.265 mgd was first approved via Docket No. D-1985-025-2, on July 13, 2011. The modified WWTP will utilize an extended aeration activated sludge treatment process with ultraviolet (UV) disinfection. The WWTP will discharge the first 0.04 mgd of treated effluent to land via on-site absorption beds and will continue a surface water discharge of 0.225 mgd.

5. **Facilities.** The existing WWTP consists of a bar screen, a comminutor, two equalization basins, four extended aeration basins, a clarifier, a flocculation tank, a tray settler, a sand filter, a sludge holding tank, an effluent equalization tank, a chlorinator, and a chlorine contact tank.

The modified WWTP will consist of a bar screen, a comminutor, two equalization basins, four extended aeration basins, a clarifier, two flocculation tanks, two tray settlers, two sand filters, a sludge holding tank, three effluent equalization tanks, an UV disinfection unit, and three on-site absorption beds.

The existing WWTP has a remote 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 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 supplied by the docket holder. The docket holder's water withdrawal is described in detail in Docket No. D-1993-053-3, which was approved on September 10, 2014.

7. **NPDES Permit / DRBC Effluent Requirements.** NPDES Permit No. PA0061182 was issued by the PADEP and includes final effluent limitations for the project discharge of 0.225 mgd to surface waters classified by the PADEP as High Quality and Cold Water Fishes, Migratory Fishes (HQ-CWF, MF). 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 0.225 mgd.

B. FINDINGS

The purpose of this docket is to renew approval of the existing 0.225 mgd Big Boulder WWTP and its related discharge. This docket also continues the Commission's approval from Docket No. D-1985-025-4, to expand the facility to 0.265 mgd and discharge the first 0.04 mgd of treated effluent to land via absorption beds.

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 River 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*.

New WWTPs or those making substantial alterations or additions are required by the Commission to perform a natural treatment alternatives (NTA) Analysis as part of the Application process. The docket holder has in fact chosen a NTA to treat the expansion portion of the discharge and therefore has satisfied this requirement for the proposed substantial alterations and additions to the facility.

Since the incremental flow increase from 0.225 mgd to 0.265 mgd is to be land treated, Commission staff have determined that this project has met the no measurable change (NMC) to existing water quality (EWQ) requirement at the Lehigh River boundary control point (BCP) over 90 miles downstream.

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. Since this project does entail additional construction and expansion of facilities and there are new or increased non-point source loads associated with this approval, the NPSPCP requirement is applicable at this time.

The docket holder has submitted an approved Erosion & Sediment Control Plan approved by the Carbon County Conservation District and Kidder Township does have Stormwater Management Ordinance that satisfies the NPSPCP requirement. Accordingly, DECISION Conditions C.7. and C.8. have been included in this docket.

2. Other

At the docket holder's WWTP discharge, the UNT Tunkahannock Creek has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 0.09 mgd (0.14 cfs). The ratio of this low flow to the hydraulic design wastewater discharge from the 0.225 mgd WWTP is 0.4 to 1.

The nearest surface water intake of record for public water supply is located on the Lehigh River approximately 48 River Miles downstream of the docket holder's WWTP and is operated by Leighton Water 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-1985-025-5. Docket No. D-1985-025-4 is terminated and replaced by Docket No. D-1985-025-5. 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 Discharging to UNT Tunkhannock and On-Site Absorption Beds		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	30 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)	25 mg/l	As required by NPDES Permit
Ammonia Nitrogen (5-1 to 10-31) (11-1 to 4-30)	3.0 mg/l 9.0 mg/l	As required by NPDES Permit
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200 colonies per 100 ml as a geo. avg. 2000 colonies per 100 ml as a geo. avg.	As required by NPDES Permit
Phosphorus	0.5 mg/l	As required by NPDES Permit
Total Nitrogen	Monitor & Report	As required by NPDES Permit
Nitrate as N	Monitor & Report	As required by NPDES Permit
Total Dissolved Solids	1,000 mg/l	As required by NPDES Permit

* See DECISION Condition C.10

2. Within 10 days of the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date. Within 30 days of the date of project completion, the docket holder shall notify the DRBC of the project completion date.

3. Within 30 days of completion of construction of the approved project, the docket holder is to submit to the attention of the Project Review Section of DRBC a Construction Completion Statement (“Statement”) signed by the docket holder’s professional engineer for the project. The Statement must (1) either confirm that construction has been completed in a manner consistent with any and all DRBC-approved plans or explain how the as-built project deviates from such plans; and (2) indicate the date on which the project was (or is to be) placed in operation.

Other Conditions

4. Sound practices of excavation, backfill and reseeded shall be followed to minimize erosion and deposition of sediment in streams.
5. The WWTP modifications shall be completed prior to the date of docket expiration (January 31, 2028) or the docket holder shall demonstrate to the Executive Director that it has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval. If the modifications have not been completed prior to docket expiration and the docket holder does not submit a cost analysis demonstrating substantial funds have been expended, Commission approval of the modifications to the existing WWTP shall expire. If the docket expires under this condition, the docket holder shall file a new application with the Commission and receive Commission approval prior to initiating construction of any modifications.
6. 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
7. 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 complies with a DRBC-approved NPSPCP.
8. The docket holder’s Non-Point Source Pollution Control Plan meets the general requirements of Section 3.10.3.A.2.e.1) of the Commission’s *WQR*.
9. 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.
10. 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*.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

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

17. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR*.

18. 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.

- 19.** 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.
- 20.** 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.
- 21.** 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).
- 22.** 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.
- 23.** 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).
- 24.** 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).
- 25.** 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).
- 26.** 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.
- 27.** 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: September 8, 2022

EXPIRATION DATE: January 31, 2028