

DOCKET NO. D-1967-022-2

DELAWARE RIVER BASIN COMMISSION

Lower Delaware Special Protection Waters

**Saucon Valley Country Club
Surface Water Withdrawal
Upper Saucon Township, Lehigh County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted by Saucon Valley Country Club (SVCC) to the Delaware River Basin Commission (DRBC or Commission) on June 18, 2012 for renewal of an allocation of surface water and review of a surface water withdrawal project (Application).

The Application was reviewed for continued inclusion 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 December 5, 2012.

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 34.5 million gallons per month (mgm) of water for irrigation on the docket holder's golf courses from existing surface water Intake Nos. 1 and 2.

2. **Location.** The existing withdrawal intakes are located on Saucon Creek in the Saucon Creek Watershed in Upper Saucon Township, Lehigh County, Pennsylvania, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters. Saucon Creek in the vicinity of the project is classified by the Pennsylvania Department of Environmental Protection (PADEP) as supporting Cold Water Fishes (CWF).

Specific location information has been withheld for security reasons.

3. **Area Served.** The project surface water withdrawals serve only the SVCC. 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. **Physical features.**

a. **Design criteria.** Surface water withdrawals from Saucon Creek provide irrigation water for SVCC's four golf courses; the Old Course, the Grace Course, the Weyhill Course, and the 6-hole course. The four golf courses consist of approximately 258 irrigated acres including 150 acres of fairways, 24 acres of tees, 24 acres of greens, and 60 other irrigated acres of roughs, landscaping features, etc. During the peak irrigation season the SVCC records an existing average and maximum water demand of 0.795 million gallons per day (mgd) and 1.150 mgd, respectively. The SVCC does not project the 10-year average and maximum water demand to increase. The allocation of 34.5 mgm should be sufficient to meet the future demands of SVCC.

b. **Facilities.** The existing project surface water intakes have the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
1	Saucon Creek	1,500	7.82	1948
2	Saucon Creek	3,500	9.87	1965

All surface water withdrawals are metered.

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

The project intakes and pump houses are located within the 100-year flood plain elevation.

The water system is not presently interconnected with any other water system.

Public water supply is provided to the SVCC by Upper Saucon Township approved in Docket No. D-2000-051 CP-3.

c. **Other.** Wastewater from the SVCC is conveyed to the Upper Saucon Township sewage treatment facility most recently approved by DRBC Docket No. D-2003-005 CP-1 on June 26, 2003. The PADEP issued its most recent NPDES Permit No. PA0053147 on June 1, 2009 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

d. **Cost.** There are no costs associated with the approval of this existing project.

B. FINDINGS

Background

The SVCC and a portion of their withdrawal pre-dates the formation of the DRBC. The Weyhill Golf Course portion of the project was purchased by SVCC from Bethlehem Steel Corporation on December 30, 1994, which included the improvements made by Bethlehem Steel Corporation to Intake No. 2. The Weyhill Golf Course and associated withdrawal was approved by the Commission in Docket No. D-1967-022-1 on March 29, 1967.

Special Protection Waters

In 1992, the DRBC adopted Special Protection Waters requirements, as part of the DRBC *Water Quality Regulations* (WQR), designed to protect existing high 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 *Water Quality Regulations* 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 Special Protection Waters 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 Special Protection Waters 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 Special Protection Waters. The surface water intakes providing water supply to the docket holder are located within the drainage area to Special Protection Waters. Since this project does not entail additional construction and expansion of facilities/service areas and there are not any new or increased non-point source loads associated with this approval, the non-point source pollution control plan requirement is not applicable at this time. Accordingly, Condition C.II.u. has been included in the DECISION Section of this docket.

Existing Withdrawals

This project consists of an existing withdrawal of surface water from Intake Nos. 1 and 2. The docket holder has requested allocations for existing Intake Nos. 1 and 2 based on existing water use. The rates and allocations are provided in Condition C.II.d. in the DECISION Section of this docket. As the impacts from the existing withdrawals have already been realized by the local hydrologic system, there should be no significant impacts from continued withdrawals from the existing system intakes.

Drought Management and Contingency Plans (DMCPs)

Section 2.3.5.1 C. of the Commission's *Rules of Practice and Procedure (RPP)*, requires industrial and commercial water withdrawals in excess of one million gallons per day to develop a contingency plan including emergency conservation measures to be instituted in the event of a Commission declared drought or other water shortage. Resolution No. 83-14 amended the Commission's *Water Code* (Section 2.1.4) to include the conservation goal of a 15 percent reduction in depletive use during drought conditions. Hereafter referred to as drought management and contingency plans (DMCPs), DMCPs must contain the following: source of water supply; the average daily and monthly peak water withdrawal; average daily and peak monthly consumptive use (difference between quantity withdrawn and quantity returned to the ground or surface waters of the basin); description of recycling and conservation measures; point of discharge (where water is returned or discharged); types of products produced; normal employment levels (numbers); and estimated employment (numbers) and economic impact for curtailment of water usage for the following levels of curtailment: 10%; 25%; 35%; 50% and 100%. The DMCP shall be submitted to the Commission within 6 months (June 5, 2013) of the docket approval date. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director as described in Condition C.II.k. in the DECISION Section.

Passby Flow

The docket holder's surface water withdrawal has not previously been subject to a passby flow requirement. The estimated contributing drainage area to Saucon Creek above SVCC Intake No. 2 (the downstream intake) is approximately 29 square miles. The estimated seven-day low flow with a recurrence interval of 10 years (Q7-10) at the point of withdrawal is 9.87 cubic feet per second (cfs) or 6.38 million gallons per day (mgd). These values are based on data generated from the United States Geological Survey (USGS) Stream Stats. Saucon Creek is an ungaged creek. The project withdrawal must not cause the stream flow in Saucon Creek to be less than 9.87 cfs at the point of taking at Intake No. 2 and daily withdrawal rates shall be reduced as appropriate to ensure that the withdrawal does not result in flow less than 9.87 cfs from passing the intake. Withdrawals shall cease entirely if the flow as measured below the intake, less the withdrawal from both intakes, is 9.87 cfs or less. Whenever the stream flow below the intakes is less than 9.87 cfs, no withdrawal from the creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Saucon Creek as measured below the intake is at least 21 cfs. Within three months of the date of approval of this Docket (March 5, 2013) the docket holder shall submit an Operation Plan, subject to approval by the Executive Director of the DRBC, which shall include a means to monitor, report, and comply with the pass-by flow. The pass-by requirement will become effective upon the date prescribed in the Executive Director's approval of the plan in accordance with Condition C.II.f. in the DECISION Section.

Surface Water Charges

SVCC currently reports its monthly water use to the Commission on an annual basis. Information included in the annual water use records indicates that the total pumping capacity of the irrigation system has increased from 1,350 gpm to 5,000 gpm and maximum monthly water use has increased from 6.5 mgm to 27.5 mgm. SVCC was in existence and withdrawing surface

water prior to the effective date of the Compact. According to an *Inventory of Golf Course Water Use* submitted by SVCC to the Commission on March 14, 1991, SVCC's pre-Commission withdrawal capacity was 1,350 gallons per minute (gpm) and provided a maximum of 6.5 mgm of water to the Old Golf Course, the Grace Golf Course and the 6 Hole Golf Course. The Weyhill Golf Course does not pre-date the Commission. Additionally, the SVCC's purchase of Intake No. 2 and the Weyhill Golf Course results in a change of ownership of the facilities; therefore, any water withdrawn for use on the Weyhill Golf Course is subject to water supply charges. Section 15.1(b) of the Delaware River Basin Compact provides that "no provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact;..." "In compliance with this provision: There shall be no charge for water withdrawn or diverted in quantities not exceeding the legal entitlement of the user as determined as of October 27, 1961.

The Certificate of Entitlement issued concurrently with this docket is based on the maximum reported water use (6.5 mgm) and the areas on which that water was used for irrigation prior to the formation of the Commission. The docket holder will remit surface water usage charges annually to the Commission above 6.5 mgm and on all water used on the Weyhill Golf Course in accordance with the Commission's *Administrative Manual - Part III – Basin Regulations - Water Supply Charges*. DRBC Entitlement No. 394 entitles SVCC to withdrawal 6.5 mgm (5.85 mgm consumptive use and 0.65 mgm non-consumptive use) from Saucon Creek without surface water charges for irrigation on the Old Course, the Grace Course and the 6-hole Course. The docket holder shall pay for all withdrawn surface water used to irrigate the Weyhill Golf Course and withdrawn surface water in excess of 5.85 mgm consumptive use and 0.65 mgm non-consumptive use, used to irrigate the Old Course, the Grace Course and the 6-hole Course in accordance with the provisions of Resolution No. 74-6, as amended as described in Condition C.II.e. in the DECISION section.

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 Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

Floodplain Regulations

The project intakes and pump houses are located within the floodway in the 100-year flood plain elevation. Both are prior non-conforming structures according to the *DRBC Administrative Manual-Part III Basin Regulation-Flood Plain Regulations* adopted November 10, 1976 by the Commission. As such, these structures may not be expanded, except that they may be modified, altered or repaired to incorporate flood proofing measures provided such measures do not raise the level of the 100-year flood and if destroyed or damaged by any means, including a flood, to the extent of 50 percent or more of its market value at that time, may not be restored, repaired, reconstructed or improved except in conformity with the provisions of these regulations as described in Condition C.II.g. in the DECISION Section.

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

I. Effective on the approval date for Docket No. D-1967-022-2 below, Docket No. D-1967-022-1 is terminated and replaced by Docket No. D-1967-022-2.

II. The project and appurtenant facilities as described in the Section A “Physical features” are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. The docket holder shall register with and report to the PADEP all surface and ground water sources described in this docket in accordance with the Pennsylvania Regulations (Title 25 - Environmental Protection, [25 PA. CODE CH. 110], Water Resources Planning).

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

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

d. During any month, the combined withdrawal from all surface water sources shall not exceed 34.5 million gallons. No withdrawal shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION
1	1,500 gpm	34.5
2	3,500 gpm	34.5

e. The docket holder shall pay for all withdrawn surface water used to irrigate the Weyhill Golf Course and withdrawn surface water in excess of 5.85 mgm consumptive use and 0.65 mgm non-consumptive use, used to irrigate the Old Course, the Grace Course and the 6-hole Course in accordance with the provisions of Resolution No. 74-6, as amended.

f. The project withdrawal must not cause the stream flow in Saucon Creek to be less than 9.87 cfs at the point of taking at Intake No. 2 and daily withdrawal rates shall be reduced as appropriate to ensure that the withdrawal does not result in flow less than 9.87 cfs from passing the intake. Withdrawals shall cease entirely if the flow as measured below the intake, less the withdrawal from both intakes, is 9.87 cfs or less. Whenever the stream flow

below the intakes is less than 9.87 cfs, no withdrawal from the creek shall be made and the entire natural stream flow must be allowed to pass. No withdrawals shall be made until flow in Saucon Creek as measured below the intake is at least 21 cfs. Within three months of the date of approval of this Docket (March 5, 2013) the docket holder shall submit an Operation Plan, subject to approval by the Executive Director of the DRBC, which shall include a means to monitor, report, and comply with the pass-by flow. The pass-by requirement will become effective upon the date prescribed in the Executive Director's approval of the plan

g. The project intakes and pump houses are located within the floodway in the 100-year flood plain elevation. Both are prior non-conforming structures according to the *DRBC Administrative Manual-Part III Basin Regulation-Flood Plain Regulations* adopted November 10, 1976 by the Commission. As such, these structures may not be expanded, except that they may be modified, altered or repaired to incorporate flood proofing measures provided such measures do not raise the level of the 100-year flood and if destroyed or damaged by any means, including a flood, to the extent of 50 percent or more of its market value at that time, may not be restored, repaired, reconstructed or improved except in conformity with the provisions of these regulations

h. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. 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.

i. The docket holder shall implement to the satisfaction of the PADEP, the 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.

j. 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.

k. The docket holder shall prepare and submit a DMCP to the Commission within 6 months (June 5, 2013) of docket approval. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director.

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

m. Sound practices of excavation, backfill and reseeding shall be followed to minimize erosion and deposition of sediment in streams from any new facilities or repair related construction.

n. 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.

o. 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*.

p. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges 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 (or the later date established by an extension that has been timely requested and approved), 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.

q. 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.

r. If the monitoring required herein, or any other data or information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing uses of ground or surface water, or if the docket holder receives a complaint by any existing ground or surface water users within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by any ground or surface users within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. The docket holder should direct phone call notifications of potential well or surface water interference or complaints of interference to the DRBC Project Review Section at 609-883-9500, extension 216. Oral notification must always be followed up in writing directed to the Executive Director. In addition, the docket holder shall provide written notification to all potentially impacted users of wells or surface water supplies of the docket holder's responsibilities under this condition. Any ground or surface water user which is substantially adversely affected, rendered dry or otherwise diminished as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and the extent of appropriate mitigation measures, if required.

s. 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.

t. 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.

u. Prior to constructing any new facilities , 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 construction of any new facilities is in compliance with a DRBC approved NPSPCP.

v. 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: December 5, 2012

EXPIRATION DATE: December 5, 2022