

DOCKET NO. D-2005-016-4

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**Bear Creek Management Company LLC
Bear Creek Mountain Resort and Conference Center Wastewater Treatment Plant
Longswamp 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 August 29, 2022 (Application), for renewal of the docket holder’s existing wastewater treatment plant (WWTP), its discharge, and re-use for snowmaking. The Pennsylvania Department of Environmental Protection issued Water Quality Management (WQM) Permit No. 0605408 for this discharge.

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. A public hearing on this project was held by the DRBC on November 8, 2023.

A. DESCRIPTION

- 1. Purpose.** The purpose of this docket is to renew approval of the docket holder’s existing 0.045 million gallons per day (mgd) WWTP and its discharge to land. The docket holder will continue to re-use treated effluent for on-site snowmaking.
- 2. Location.** The docket holder’s WWTP is located at Doe Mountain Lane in Longswamp Township, Berks County, Pennsylvania. The WWTP will continue to discharge treated effluent to land via spray fields, which are located up-gradient of Swabia Creek, within the drainage area to the Lower Delaware Special Protection Waters (SPW).

The location of the WWTP and sampling points before discharge to land in the Swabia Creek Watershed is as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001 (Prior to Spray Application)	40° 28’ 40”	75° 37’ 32”
002 (Prior to Snowmaking Reuse)	40° 28’ 40”	75° 37’ 32”

3. **Area Served.** The docket holder's WWTP will continue to treat wastewater generated by the docket holder's ski facilities, resort, and conference center located in Berks 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 0.045 mgd WWTP utilizes an activated sludge treatment process with ultraviolet (UV) disinfection. The WWTP is designed to treat up to 0.045 mgd of wastewater, the facility discharges to land as liquid or as snow at a maximum rate of 0.035 mgd.

5. **Facilities.** The WWTP facilities consist of 2 equalization tanks, 8 aeration tanks, 2 anoxic tanks, 2 final clarifiers, a tertiary filtration system, 2 sludge holding tanks, a UV disinfection system, and a treated effluent storage lagoon and sprayfields. The docket holder's snowmaking system can utilize treated effluent to make snow. Effluent is reclaimed for snowmaking in accordance with PADEP's "*Reuse of Treated Wastewater Guidance Manual 385-2188-02*". Snowmaking water is limited to a 10% maximum composition of treated effluent (10:1 ratio, freshwater to treated effluent). Snowmaking water with a 10% composition of treated effluent is discharged to 5.07 acres of the entire spray field at a maximum rate of 1.8 inches/acre/week, via 6 snow production units. Otherwise, treated effluent is discharged to a slow-rate infiltration spray field with 3 designated zones totaling 7.57 acres, at a maximum rate of 1.19 inches/acre/week. Freshwater used for snowmaking is withdrawn from an on-site freshwater holding pond.

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 staffed 24 hours per day and in accordance with the Commission's SPW requirements.

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 for disposal in accordance with the WQM Permit No. 0605408

6. **Water Withdrawals.** The potable water supply and snowmaking water supply for the project is provided by the docket holder's groundwater and surface water withdrawals as described in detail in Docket No. D-2004-035-2, approved on December 10, 2014.

7. **WQM Permit / DRBC Effluent Requirements.** WQM Permit No. 0605408 issued by the PADEP includes final effluent limitations for the project discharge to land. The spray irrigation fields are located up-gradient of Swabia Creek, which are surface waters classified by the PADEP as supporting high quality water, cold water fishes, and migratory fishes (HQ-CWF, MF). EFFLUENT TABLES C-1, C-2 & C-3 included in Section C. DECISION condition C.1. of this docket, contain effluent requirements for DRBC parameters that must be met as a condition of this approval. Effluent requirements for the WWTP discharge prior to snowmaking and spray application are based on a maximum discharge rate of 0.035 mgd. In accordance with WQM Permit No. 0605408, in-stream monitoring at 5 sampling locations along Swabia Creek is required due to the stream's location down-gradient of the spray fields and persistent seeps or springs located between the spray fields and Swabia Creek.

B. **FINDINGS**

The docket holder applied to renew approval of their existing 0.045 mgd WWTP. The docket holder will continue to use its treated effluent to discharge to land, via spray irrigation at a maximum application rate of 0.035 mgd. The docket will continue to utilize freshwater combined with treated effluent at a 10:1 ratio for on-site snowmaking purposes, applied to land at a maximum discharge rate of 0.035 mgd.

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 located in the drainage area to the SPW. Since this project does not entail additional construction and/or expansion of facilities and service area and there are no new or increased non-point source loads associated with this approval, the NPSPCP requirement is not applicable at this time. Accordingly, Section C. DECISION conditions C.3 and C.4 have been included in this docket.

2. Other

Near the WWTP land application location, Swabia Creek 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 Delaware River approximately 82 River Miles downstream of the docket holder's WWTP and is operated by Bucks County Water and Sewer 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 WQM 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-2005-016-4 below, D-2005-016-3 is terminated and replaced by Docket No. D-2005-016-4. 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 WQM Permit and meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE C-1: DRBC Parameters Included in WQM Permit

OUTFALL 001 (Discharge Prior to Application to Spray Field)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by WQM Permit
Total Suspended Solids	30 mg/l	As required by WQM Permit
BOD ₅ (at 20° C)	30 mg/l	As required by WQM Permit
Ammonia Nitrogen	20 mg/l	As required by WQM Permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg.	As required by WQM Permit
Nitrite as N	Monitor & Report	As required by WQM Permit
Nitrate as N	Monitor & Report	As required by WQM Permit
Total Phosphorus	Monitor & Report	As required by WQM Permit
Total Nitrogen	Monitor & Report	As required by WQM Permit
Total Kjeldahl Nitrogen	Monitor & Report	As required by WQM Permit
Total Dissolved Solids*	Monitor & Report*	As required by WQM Permit

*See DECISION Condition C.6

EFFLUENT TABLE C-2: DRBC Parameters Included in WQM Permit

OUTFALL 002 (Discharge Prior to Snowmaking Reuse)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by WQM Permit
Total Suspended Solids	30 mg/l	As required by WQM Permit
BOD ₅ (at 20° C)	10 mg/l	As required by WQM Permit
Ammonia Nitrogen	20 mg/l	As required by WQM Permit
Fecal Coliform	2.2 colonies per 100 ml as a geo. avg.	As required by WQM Permit
Nitrite as N	Monitor & Report	As required by WQM Permit
Nitrate as N	Monitor & Report	As required by WQM Permit
Total Phosphorus	Monitor & Report	As required by WQM Permit
Total Nitrogen	Monitor & Report	As required by WQM Permit
Total Kjeldahl Nitrogen	Monitor & Report	As required by WQM Permit
Total Dissolved Solids*	Monitor & Report*	As required by WQM Permit

*See DECISION Condition C.6

EFFLUENT TABLE C-3: DRBC Parameters Included in WQM Permit

OUTFALLS 101, 102, 104, 110, 111 (Swabia Creek In-Stream Monitoring)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	Monitor & Report	As required by WQM Permit
Total Dissolved Solids*	Monitor & Report*	As required by WQM Permit
Total Kjeldahl Nitrogen	Monitor & Report	As required by WQM Permit
BOD ₅ (at 20° C)	Monitor & Report	As required by WQM Permit
Ammonia Nitrogen	Monitor & Report	As required by WQM Permit
Nitrate as N	Monitor & Report	As required by WQM Permit
Nitrite as N	Monitor & Report	As required by WQM Permit
Total Phosphorus	Monitor & Report	As required by WQM 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, 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.
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 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.
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: December 6, 2023

EXPIRATION DATE: January 31, 2029