

DOCKET NO. D-2009-016-3

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

Lehigh Cement Company LLC

Non-Contact Cooling Water Discharge

Upper Nazareth Township, Northampton County, Pennsylvania

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Lehigh Cement Company, LLC (LCC or docket holder) on August 17, 2017 (Application), for renewal of the docket holder's existing non-contact cooling water (NCCW) discharge from the docket holder's manufacturing facility, formerly known as Essroc Cement Corporation (Essroc). National Pollutant Discharge Elimination System (NPDES) Permit No. PA0065421 for this facility was issued by the Pennsylvania Department of Environmental Protection (PADEP) on May 19, 2014, effective June 1, 2014.

The Application was reviewed for 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 17, 2018.

A. DESCRIPTION

- 1. Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 0.35 million gallons per day (mgd) discharge of NCCW.
- 2. Location.** The existing Lehigh Cement manufacturing facility is located Route 248 and Easton Road, in Nazareth Township, Northampton County, Pennsylvania. The NCCW discharge will continue to be discharged to an unnamed tributary (UNT) to Shoeneck Creek at River Mile 184.0 – 5.85 – 4.1 – 0.15 (Delaware River – Bushkill Creek – Shoeneck Creek – UNT Shoeneck

Creek) via Outfall No. 002, within the drainage area to the Lower Delaware Special Protection Waters (SPW), as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
002	40° 43' 35"	75° 17' 35"

3. **Area Served.** The docket holder's manufacturing plant will continue to operate and handle the on-site NCCW, used for the manufacturing process located in Northampton, 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. **Physical Features.**

a. **Design Criteria.** The docket holder's manufacturing facility will continue to discharge up to 0.35 mgd of NCCW and Stormwater via Outfall No. 002. The discharge of up to 0.35 was determined based on the facility's maximum monthly discharge rate within its 2012-2013 discharge data.

b. **Facilities.** The docket holder's manufacturing facility has two internal monitoring points (IMP). IMP No.101 monitors NCCW from the facility's roll press operation; IMP No. 202 monitors NCCW from the facility's cement coolers, Outfall No. 002 discharges NCCW from the facility's settling basins consisting of flow from the Internal monitoring points. NCCW is sourced from on-site deep wells #1, #2, and #3.

Sanitary wastewater from the manufacturing facility is discharged to the Nazareth Borough Municipal Authority's public sewer system. The Nazareth Borough Municipal Authority's WWTP and related discharge were approved by the Commission on March 3, 2010, via Docket No. D-2002-038 CP-2.

On-site sludge is rarely produced, when it is it is transferred back to the kilns for the manufacturing process.

The docket holder does not operate a treatment facility and therefore emergency power and remote alarms are not required to be installed, nor is an emergency management plan (EMP) necessary.

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

c. **Water withdrawals.** The potable water supply in the project service area is provided by the Pennsylvania American Water Company (PAWC), the withdrawal by PAWC was approved on January 13, 1988 via Docket No. D-1977-074 CP.

d. **Effluent Requirements.** EFFLUENT TABLES A-1 and A-2 below contain effluent requirements for DRBC parameters that must be met as a condition of this approval (See DECISION Condition C.II.c.). NPDES Permit No. PA0065421 was issued by the PADEP on May 19, 2014 (effective June 1, 2014) and includes final effluent limitations for the project discharge

to surface waters classified by the PADEP as supporting warm water fishes (WWF). 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 A-1: DRBC Parameters Included in NPDES Permit

OUTFALL 002 (Discharging to UNT Shoeneck)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	50 mg/l	As required by NPDES Permit
Temperature	110 ° F (Max)	As required by NPDES Permit
CBOD5 (at 20°C)*	Monitor & Report	See EFFLUENT TABLE A-2
Ammonia Nitrogen*	Monitor & Report	See EFFLUENT TABLE A-2
Total Nitrogen*	Monitor & Report	See EFFLUENT TABLE A-2
Phosphorus*	Monitor & Report	See EFFLUENT TABLE A-2
Dissolved Oxygen*	Monitor & Report	See EFFLUENT TABLE A-2

* The NPDES Permit requires seasonal monthly sampling for these parameters. This docket requires annual monitoring for these parameters (See EFFLUENT TABLE A-2 Below).

The requirements and limits in EFFLUENT TABLE A-2 are not listed in the NPDES Permit but are Commission basin-wide and SPW specific parameters that must be met as a condition of this docket approval.

EFFLUENT TABLE A-2: DRBC Parameters Not Included in NPDES Permit

OUTFALL 002 (NCCW Discharge to UNT to Shoeneck)		
PARAMETER	LIMIT	MONITORING
Total Dissolved Solids*	1,000 mg/l *	Quarterly
CBOD5 (at 20°C)	Monitor & Report	1/Year
Nitrate as N	Monitor & Report	1/Year
Total Nitrogen	Monitor & Report	1/Year
Phosphorus	Monitor & Report	1/Year
Dissolved Oxygen	Monitor & Report	1/Year
Ammonia Nitrogen	Monitor & Report	1/Year

* See DECISION Condition C.II.r

B. FINDINGS

The purpose of this docket is to renew the approval of the docket holder's existing discharge of 0.35 of NCCW from its manufacturing facility.

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*.

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 expansion of (facilities/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, DECISION Conditions C.II.k. has been included in this docket.

Near the docket holder's NCCW discharge, the Shoeneck Creek has an estimated seven-day low flow with a recurrence interval of ten years (Q_{7-10}) of 0.81 mgd (1.25 cfs). The ratio of this low flow to the 0.35 mgd NCCW discharge is 2.3 to 1.

The nearest surface water intake of record for public water supply is located on the Delaware River approximately 57 River Miles downstream of the docket holder's NCCW discharge and is operated by the Pennsylvania American Water Company.

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

I. Effective on the approval date for Docket No. D-2009-016-3; Docket No. D-2009-016-2 is terminated and replaced by Docket No. D-2009-016-3.

II. The project and appurtenant facilities as described in Section A "Physical Features" of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

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

b. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR* and Flood Plain Regulations (*FPR*).

c. The docket holder shall comply with the requirements contained in the EFFLUENT TABLES in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results electronically to the DRBC Project Review Section via email **aemr@drbc.state.nj.us** on the **Annual Effluent Monitoring Report Form** located at this web address: <http://www.state.nj.us/drbc/programs/project/pr/info.html>. 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.

d. 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*.

e. 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.

f. 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.

g. The docket holder is permitted to treat and discharge wastewaters 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.

h. 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.

i. 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).

j. 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, in order to ensure proper control, use and management of the water resources of the Basin.

k. 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 is in compliance with a DRBC-approved NPSPCP.

l. 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.

m. 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).

n. 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).

o. 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).

p. 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.

q. 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.

r. 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.

s. 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.

t. 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.

u. 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.

BY THE COMMISSION

APPROVAL DATE:

EXPIRATION DATE: May 31, 2024