

**DOCKET NO. D-2000-009 CP-3**

**DELAWARE RIVER BASIN COMMISSION**

**Special Protection Waters**

**Whitehall Township Authority**

**Groundwater Withdrawal**

**Whitehall Township, Lehigh County, Pennsylvania**

**PROCEEDINGS**

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) on May 1, 2023, revised on October 3, 2023 for renewal of an allocation of groundwater and review of a groundwater water withdrawal project (Application). The most recent Public Water Supply Permits approving the operations of facilities were issued by the Department of Environmental Protection (PADEP) on June 29, 2010, December 8, 2010 and May 4, 2011 (Permit No.3390081).

The Application was reviewed for continuation of this project 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 February 7, 2024.

**A. DESCRIPTION**

**1. Purpose.** The purpose of this project is to renew the approval of an existing groundwater withdrawal of up to 44.0 million gallons per month (mgm) of water from six existing wells for continued use in the docket holder's public water supply system. The allocation is a reduction from the previous allocation of 57.38 mgm approved in the previous docket and is based on projected demands.

**2. Location.** The project wells are completed in the carbonate aquifers of the Allentown and Epler Formations in the Coplay Creek, Lower Jordan Creek and the Lehigh River-Delaware River Watersheds, within the drainage area of the Lower Delaware, which the Commission has classified as Special Protection Waters, in Whitehall Township, Lehigh County, Pennsylvania. Jordan Creek and Lehigh River near the project site is designated by the PADEP as supporting Trout Stocking (TSF) and migratory Fishes (MF) and Coplay Creek is designated as supporting cold water fishes (CWF) and trout stocking (TSF).

Specific location information has been withheld for security reasons.

**3. Area Served.** The project wells serve the western and southern portions of Whitehall Township and the southeast corner of North Whitehall Township all in Lehigh County, Pennsylvania. The service area is outlined on a plan entitled “Service Area Map, Whitehall Township Authority, Water Distribution System”, dated April 21, 2023, submitted with the Application. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in Section C. DECISION of this docket.

**4. Design Criteria.** The system currently serves water to approximately 13,693 persons on 2,460 domestic service connections and 449 commercial service connections and records an existing average and maximum daily water demand of 0.961 million gallons per day (mgd) and 1.060 mgd, respectively. The docket holder projects the 10-year average and maximum water demand to increase to 1.055 mgd and 1.340 mgd, respectively. The requested allocation of 44.0 mgm should be sufficient to meet the future demands of the docket holder’s public water system.

**5. Facilities.** The existing project wells have the following characteristics:

<b>WELL DESIGNATION</b>	<b>DEPTH</b>	<b>CASED DEPTH/ CASING DIAMETER</b>	<b>PUMP CAPACITY</b>	<b>YEAR DRILLED</b>
Walnut Gardens No. 1	270’	59’ / 6”	50 gpm	1975
Walnut Gardens No. 3	400’	80’ / 8”	380 gpm	1985
Mickley Gardens No. 2	185’	53’ / 8”	300 gpm	1984
Malitsch	500’	153’ / 8”	220 gpm	1991
Huber	555’	263’ / 8”	220 gpm	1995
Lehnert Road	590’	237’ / 8”	770 gpm	1998

All wells and service connections are metered.

All well water is chlorinated prior to entering the distribution system.

The project wells are outside the 100-year floodplain.

The system has a 2.0 mgd capacity emergency interconnection with the City of Allentown through 2 metered interconnections.

**6. Other.** Wastewater is conveyed to the City of Allentown wastewater treatment plant most recently approved by DRBC Docket No. D-97-14 CP on August 6, 1997. The PADEP issued National Pollutant Discharge Elimination System (NPDES) Permit No. PA0026000 for this discharge. The treatment facility has adequate capacity to continue to receive wastewater from the existing project.

**7. Relationship to the Comprehensive Plan.** The project was previously included in the Comprehensive Plan by the Commission in Docket Nos. D-85-37 CP, D-86-14 CP, D-87-16 CP, D-87-16 (Revised), D-90-39 CP, D-92-28 CP, D-95-48 CP, D-2000-9 CP, and D-2000-009 CP-2. Issuance of this docket will continue the withdrawal project in the Comprehensive Plan.

## **B. FINDINGS**

### **1. Special Protection Waters**

In 1992, the DRBC amended its Water Quality Regulations (WQR) by the addition of regulations for the protection of Special Protection Waters (SPW), designed to maintain the quality of interstate waters where existing quality is better than the established stream quality objectives. As the result of its initial classifications and subsequent amendments, the Commission has designated the entire non-tidal main stem Delaware River from Hancock, New York to Trenton, New Jersey as SPW. DRBC's SPW regulations apply within the designated reaches and their drainage area.

Sections 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 in the drainage area of the SPW. The municipalities within the docket holder's service area as described above in A.3 "Area Served" (including Whitehall Township and North Whitehall Township) have enacted and are actively implementing non-point source/stormwater control ordinances adopting the Bushkill Creek, Catasauqua Creek, Coplay Creek, Fry's Run, Hokendauqua Creek, Jordan Creek, Martins/Jacoby Creeks, Monocacy Creek, Nancy Run, Saucon Creek, Trout/Bertsch Creeks, Delaware River Subbasins and Lehigh River Subbasins Watershed Act 167 Stormwater Management Plan Water Quality Update, approved by PADEP on December 3, 2010 and the Whitehall Township Ordinance No. 3312-2023, adopted on May 8, 2023 and the North Whitehall Township Ordinance No. 2022-5 adopted on September 12, 2022. These 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 Whitehall and North Whitehall Townships. 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. Water Audits for Public Water Supply Systems Serving Greater than 100,000 gpd**

Section 2.1.8 of the Water Code states that it is the policy of the Commission to establish a standardized water audit methodology for owners of water supply systems serving the public to ensure accountability in the management of water resources. Voluntary Water Audits were encouraged for public water supply systems through December 31, 2011 (Section 2.1.8.B.). Effective January 1, 2012, the owners of each public water supply system are required to implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding AWWA guidance (Section 2.1.8.C). Water audits shall be submitted annually to the Commission by March 31. The docket holder submitted their most recent Water Audit on February 7, 2023.

**3. Other Findings**

The DRBC estimates that the project withdrawals, used for the purpose of public water supply, result in a consumptive use of 10 percent of the total water use. The DRBC definition of consumptive use is defined in Basin Regulations-Water Supply Charges 18 C.F.R. 420.1(d).

This project consists of an existing withdrawal of groundwater from six existing wells. As the existing water withdrawals have already been realized by the local hydrologic system, there should be no significant impacts from continued withdrawals from the existing system wells.

The project is designed to conform to the requirements of the *Water Code (WC)* and *Water Quality Regulations (WQR)* 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**

Effective on the approval date for Docket No. D-2000-009 CP-3 below, the project described in Docket No. D-2000-009 CP-2 is removed from the Comprehensive Plan to the extent that it is not included in Docket No. D-2000-009 CP-3; Docket No. D-2000-009 CP-2 is terminated and replaced by Docket No. D-2000-009 CP-3; and the project and the appurtenant facilities described in in Section A.4. (Design Criteria) and A.5. (Facilities) shall be continued in the Comprehensive Plan. The project and appurtenant facilities as described in in Section A.4. (Design Criteria) and A.5. (Facilities) are approved subject to the following conditions, pursuant to Section 3.8 of the *Compact*:

**Monitoring and Reporting**

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

2. The project withdrawals shall be metered by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within 5 percent of actual flow. Meters or other methods of measurement shall be subject to approval and inspection by the PADEP as to the type, method, installation, maintenance, calibration, reading and accuracy. 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.

3. In accordance with DRBC Resolutions No. 87-6 (Revised) and No. 2009-1, the docket holder shall continue to implement to the satisfaction of the PADEP, the systematic program to monitor and control leakage within the water supply system. The program shall at a minimum include: periodic surveys to monitor leakage, enumerate non-revenue water and determine the current status of system infrastructure; recommendations to monitor and control leakage; and a schedule for the implementation of such recommendations. The docket holder shall proceed expeditiously to correct leakages and unnecessary usage identified by the program.

4. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the *Water Code (WC)*, the docket holder shall implement an annual calendar year water audit program conforming to IWA/AWWA Water Audit Methodology (AWWA Water Loss Control Committee (WLCC) Water Audit Software) and corresponding guidance. Water audits shall be submitted annually to the Commission by March 31.

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

6. 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.

**Other Conditions**

7. During any month, the combined withdrawal from all well sources shall not exceed 44.00 million gallons. No well shall be pumped above the maximum rate and monthly allocation as indicated below:

<b>WELL ID</b>	<b>MAXIMUM RATE (GPM)*</b>	<b>MONTHLY ALLOCATION (MGM)</b>
Walnut Gardens No. 1	50 gpm	2.00 mgm
Walnut Gardens No. 3	330 gpm	8.00 mgm
Mickley Gardens No. 2	312 gpm	10.00 mgm
Malitsch	220 gpm	4.00 mgm
Huber	200 gpm	4.00 mgm
Lehnert Road	770 gpm	16.00 mgm

\* Based on a 24-Hour Average

8. In accordance with 18 C.F.R. 401.8. of the Commission’s *Rules of Practice and Procedure (RPP)*, if at any future time the Project is changed substantially from the Project as described in this docket, it will be deemed to constitute a new and different project for the purposes of Article 11 of the Delaware River Basin Compact and will require Commission amendment of the Comprehensive Plan. In accordance with the same section of the RPP, whenever a change to the Project is made, the sponsor must advise the Executive Director, who will determine whether the change is deemed substantial for purposes of this provision.

9. Section 2.3.10 of the Commission’s Rules of Practice and Procedure (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.

10. 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.

**11.** The wells and operational records shall be available at all times for inspection by the DRBC.

**12.** The wells shall be operated at all times to comply with the requirements of the *WC* and *WQR* of the DRBC.

**13.** The wells shall be equipped, where possible, with readily accessible capped ports and minimum ½ inch inner diameter (ID) drop pipes as repairs or modifications are made at each existing well so that water levels may be measured under all conditions.

**14.** Each new water service connection shall include a water meter in accordance with the DRBC's Resolution No. 87-7 (Revised).

**15.** No water 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).

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

**17.** No new water service connections shall be made to premises connected to sewerage systems which are not in compliance with all applicable effluent limits contained in State permits and the *Water Quality Regulations* of the Commission.

**18.** 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.

**19.** 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*.

**20.** 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).

**21.** 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).

**22.** 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).

**23.** 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 to ensure the proper control, use and management of the water resources of the Basin.

**24.** If the monitoring required herein or any other relevant data or information demonstrates that the operation of this project is interfering with or otherwise impairing existing uses of ground or surface water, or if the docket holder receives a complaint from an existing ground or surface water user within the zone of influence of the withdrawal alleging such interference or impairment, the permit holder shall immediately notify the Executive Director, and unless excused by the Executive Director, shall investigate the demonstrated or alleged impacts. For purposes of this condition, notification shall mean either (a) electronic transmittal of written notice to the Executive Director via email (using addresses posted on the DRBC website); or (b) written notice to the Executive Director and a telephone call to the Project Review Section at 609-883-9500, ext. 216. (Oral notification must always be accompanied by immediate written notification directed to the Executive Director.) In addition, the docket holder shall provide written notice to all potentially affected water users of the docket holder's responsibilities under this condition. **Any well or surface water supply that is impaired as a result of the docket holder's project withdrawal shall be repaired, replaced or mitigated at the docket holder's expense.** The scope of the options to consider for repair, replacement and/or mitigation shall not be limited solely to those that are owned, operated, or controlled by the project sponsor. An investigation report and/or mitigation plan prepared and certified by a licensed professional engineer and/or a licensed professional geologist shall be submitted to the Executive Director as soon as practicable following notice of the demonstrated or alleged impairment consistent with this paragraph. The Executive Director shall make the final determination regarding the scope and sufficiency of the investigation and the extent of any mitigation measures that may be required. Where ground and surface waters are rendered unavailable, unusable, or unsuitable for the pre-existing use, the Executive Director may direct the docket holder to take interim actions to mitigate such impacts, pending completion of the investigative report and any long-term repair, replacement, or mitigation.

**25.** 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.



**26.** 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.

**27.** Prior to allowing connections from any new service areas or any new developments not in compliance with the Ordinances listed in Section B.1 of this docket, 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.

**28.** 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: March 6, 2024**

**EXPIRATION DATE: March 6, 2034**