

DOCKET NO. D-2013-019 CP-1

DELAWARE RIVER BASIN COMMISSION

Special Protection Waters

**City of Port Jervis
Reservoirs Nos. 1, 2 and 3 and
Surface Water Withdrawal
Town of Deerpark, Orange County, New York**

PROCEEDINGS

This docket is issued in response to an Application submitted by City of Port Jervis (Port Jervis or docket holder) to the Delaware River Basin Commission (DRBC or Commission) on November 21, 2013 for an allocation of surface water and review of a surface water withdrawal project (Application). The acquisition of the water supply system by Port Jervis was approved by the State of New York Water Power and Control Commission in a decision dated April 13, 1929 (Water Supply Application No. 500). An expansion of the service area into an area outside the city limits in the Town of Deerpark, Orange County, New York was approved by the State of New York Water Resources Commission in a decision dated November 1, 1960 (Water Supply Application No. 3874).

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 Orange County Department of Planning has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on March 10, 2015.

A. DESCRIPTION

1. Purpose. The purpose of this project is to approve an existing surface water supply project to withdraw up to 51.5 million gallons per month (mgm) of surface water from an existing intake on Reservoir No. 1 for public water supply. This reservoir is supplemented when necessary with water from two additional interconnected reservoirs (Reservoirs Nos. 2 and 3). The docket holder also owns and maintains a surface water intake on the Neversink River and additional water storage in Boehmler Pond for emergency backup purposes.

2. Location. The three project surface water reservoirs, Boehmler Pond and the Neversink River Intake are located in the Town of Deerpark, Orange County, New York north and east of the City of Port Jervis. Reservoir No. 1 dam is located on an unnamed tributary to Gold Creek at

River Mile 252.64 - 1.70 – 0.30 – 1.27 (Delaware River – Neversink River – Gold Creek – UNT to Gold Creek). The unnamed tributary to Gold Creek downstream of the Reservoir No. 1 is classified by the NYSDEC as a Class C waterbody. The Reservoir No. 2 dam is located on Gold Creek at River Mile 252.64 - 1.70 – 2.36 – 0.70 – 2.77 (Delaware River – Neversink River – Gold Creek – Martin Lake – Gold Creek). Gold Creek downstream of Reservoir No. 2 is classified by the NYSDEC as a Class C(T) waterbody. The Reservoir No. 3 dam is located on an unnamed tributary to the Delaware River at River Mile 257.17 - 2.08 (Delaware River – UNT to Delaware River). The unnamed tributary to the Delaware River below Reservoir No. 3 is classified by the NYSDEC as a Class C(TS) waterbody. Boehmler Pond is located on Gold Creek 1.3 river miles upstream from Reservoir No. 2. The emergency water supply intake on the Neversink River is located at River Mile 252.64 – 1.96 (Delaware River – Neversink River). The Neversink River at the intake location is classified by NYSDEC as a Class B waterbody. Reservoirs Nos. 1 and 2, Boehmler Pond and the Neversink River Intake are located in the Lower Neversink River Watershed and Reservoir No. 3 is located in the Shingle Kill-Delaware River Watershed, in the drainage area of the portion of the non-tidal main stem Delaware River known as the Middle Delaware, which the Commission has designated as Special Protection Waters (SPW).

Specific location information has been withheld for security reasons.

3. Area Served. Port Jervis serves potable water from their intake in Reservoir No. 1 via their water treatment plant to customers located in the City of Port Jervis and limited areas in the Town of Deerpark, Orange County, New York. The service area is shown on plans entitled “Water Mains, Gates, Etc.” submitted with the Application. 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. The Port Jervis public water system currently serves a population of approximately 8,000 on 2,831 domestic service connections and 122 commercial service connections and records an existing average and maximum water demand of 0.910 million gallons per day (mgd) and 1.320 mgd, respectively. Port Jervis projects the 10-year average and maximum water demand to increase to 1.100 mgd and 1.660 mgd, respectively. The allocation of 51.5 mgm granted herein should be sufficient to meet the City’s future monthly water demands.

b. Facilities. The existing project intakes and reservoirs have the following characteristics:

Reservoirs

The Port Jervis surface water supply is obtained from a drainage area of approximately 5 square miles, over half of which is owned by the docket holder. The lowest of the three reservoirs (Reservoir No. 1) is located at the head of the Port Jervis Reservoir Avenue Water Filtration Plant. Reservoir No. 1, constructed in 1870, has an estimated capacity of 110 mg and a drainage area of 1.78 square miles. The reservoir is formed by an earthen dam and concrete

spillway. Water is gravity fed from Reservoir No. 1 to the Water Filtration Plant. Reservoir No. 2, constructed in 1880, is formed by an earthen dam with a concrete spillway, stores an estimated 183 mg and has a drainage area of 1.77 square miles. Water from Reservoir No. 2 is transferred to Reservoir No. 1 via a 10-inch diameter wrought iron pipe that discharges water to the tributary above Reservoir No. 1. Reservoir No. 3, constructed in 1900, is formed by an earthen dam and concrete spillway. The reservoir holds an estimated 500 mg of water and has a drainage area of 1.46 square miles. Water from Reservoir No. 3 is also diverted to the tributary above Reservoir No. 1 via 12-inch cast iron pipe and open ditch. Port Jervis can also make releases from a secondary surface water source (Boehmler Pond) into Reservoir No. 2 or 3, if necessary.

The reservoir capacities listed above are estimates provided by the docket holder in its DRBC Application. Narrative in the New York State Water Supply Application No. 3874 indicated that in 1932 the capacity of Reservoir No. 2 was increased from 220 mg to 350 mg by reconstructing the dam and raising the spillway. The capacities of Reservoir No. 1 and Reservoir No. 3 were also listed at 60 mg and 360 mg, respectively. Information from NYSDEC's Inventory of Dams database lists the normal and maximum storage volumes of Reservoir No. 1 at 65 mg and 179 mg, respectively. Reservoir No. 2's normal and maximum storage volumes are listed at 86 mg and 310 mg, respectively. The normal storage volume of Reservoir No. 3 is listed at 399 mg and the maximum storage volume of the reservoir is listed at 512 mg. Port Jervis has not modified the storage capacity of the reservoirs since 1932.

Neversink River Intake

Port Jervis also owns an intake on the Neversink River, which it maintains only for emergency supply purposes. The intake was regularly used by the City to meet its demands; however, the intake has not been used since 1946. In 1999, the intake was cleaned and repaired and piping installed to connect the backup supply to the City's water filtration plant. If needed, up to 3.0 mgd (the pump capacity) of water from the Neversink River can be routed to the water filtration plant.

Water Filtration Plant

Raw water from the intake in Reservoir No. 1 is delivered by gravity to the Port Jervis Water Filtration Plant. The plant was constructed in 1991 and has a design capacity of 3.0 million gallons per day. Water is treated with aluminum chlorhydroxide and polymer, when necessary for coagulation of particulate and organic matter. The clarified water is then treated with ozone for oxidation, and disinfection, removal of inorganics, destruction of microorganisms and protozoa along with removal of taste, odor and color. The water is then filtered to remove the remaining particulate and organic matter. Prior to entering the distribution system additions of sodium hydroxide, sodium hypochlorite and orthophosphate are added for pH adjustment, additional disinfection and corrosion control. Backwash from the filtering process is discharged to the public sewer system.

The Reservoir No. 1 intake is metered.

All water service connections are metered.

The water filtration plant building is located outside of the FEMA mapped 100-year floodplain.

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

c. **Other.** Wastewater from the Port Jervis public water supply system is conveyed to the New York City Department of Environmental Protection Port Jervis Wastewater treatment plant most recently approved by DRBC Docket No. D-2004-028 CP-2 on March 12, 2014. The NYSDEC issued its most recent SPDES Permit No. NY0026522 on April 16, 2007 for this treatment facility. The treatment facility has adequate capacity to receive wastewater from the proposed project.

d. **Cost.** There is no recent construction cost related to this docket approval.

e. **Relationship to the Comprehensive Plan.** Port Jervis' water supply from Sparrowbush Creek was incorporated in the Comprehensive Plan by Resolution 62-14, approved July 25, 1962. The project reservoirs and surface water withdrawal described herein will be added to the Commission's Comprehensive Plan upon approval of this docket.

B. **FINDINGS**

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 intake providing water supply to Port Jervis is located within in the drainage area to the Special Protection Waters. Since this project

does not entail additional construction and expansion of facilities/service areas (i.e., 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, Special Condition II.u. has been included in the Decision section of this docket.

Requested Water Allocation for Public Water Supply

In its Application, Port Jervis requested an allocation of 93 mgm, which is equivalent to the design capacity of the water filtration plant (3 mgd). However, the estimated ten-year projected maximum water use as stated in the Application is 1.660 mgd. As the Commission bases water allocations on ten-year projected maximum use estimates, the allocation of 51.5 mgm (1.66 mgd) granted herein satisfies the docket holder's ten year projected maximum use.

Neversink River Intake

The drainage area above the emergency intake on the Neversink River is 326 square miles. The estimated 7Q-10 flow at the intake is 53.1 cubic feet per second (cfs). The Neversink River Intake may be used only for emergency water supply purposes. Prior to initiating any withdrawals from the Neversink River Intake, Port Jervis shall obtain all necessary approvals from NYSDEC and NYSDOH. Port Jervis shall also notify the DRBC and the USGS Deputy Delaware River Master and NYSDEC's Regional Water Engineer at its Region 3, White Plains Office within 24 hours of initiating the withdrawal from the Neversink River Intake as described in Condition II.d. in the Decision section of this docket.

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 (see Condition II.h.). Port Jervis shall submit its first water audit by March 31, 2016.

Surface Water Charges

Because of the location above the River Master's gaging station at Montague, the surface water withdrawn by the docket holder is exempt from charge.

Other

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

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

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-2013-019 CP-1 below:

a. The project and the appurtenant facilities described in the Section A “Physical features” shall be added to the Comprehensive Plan.

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. Docket approval is subject to all conditions, requirements, and limitations imposed by the NYSDEC and NYSDOH, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s. The docket holder shall also satisfy annual withdrawal, capacity and conservation reporting requirements in the form and manner prescribed by NYSDEC’s Division of Water in accordance with NYCRR Part 601.5(a).

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

c. The intake 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 the Reservoir No. 1 intake and the Neversink River Intake shall not exceed 51.5 million gallons. No source shall be pumped above the maximum instantaneous rate and monthly allocation as indicated below:

INTAKE NO.	MAXIMUM INSTANTANEOUS RATE	MONTHLY ALLOCATION
Reservoir No. 1	2,083 gpm	51.5 mg
Neversink River	2,083 gpm	51.5 mg

Additionally, the Neversink River intake shall be used only for emergency purposes. Prior to initiating any withdrawals from the Neversink River Intake, Port Jervis shall obtain all necessary approvals from NYSDEC and NYSDOH. In addition, Port Jervis shall notify the DRBC Operations Section at 609-883-9500, extension 232 or 219 and the USGS Deputy Delaware River Master at 570-296-7213 and NYSDEC’s Regional Water Engineer at its Region 3, White Plains Office within 24 hours of the initiation of the withdrawal from the Neversink River Intake.

e. 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 NYSDEC annually and shall be available at any time to the Commission if requested by the Executive Director.

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

g. 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 NYSDEC, 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.

h. In accordance with DRBC Resolution No. 2009-1 and Section 2.1.8 of the Water Code, 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. The docket holder's first water audit shall be submitted to the Commission by March 31, 2016.

i. 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).

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

k. 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.

l. 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.

m. 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*.

n. 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.

o. 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.

p. 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.

q. 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.

r. For the duration of any drought emergency declared by either New York 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 New York, to

the extent that they may be applicable, and to any other emergency resolutions or orders adopted hereafter by the Commission.

s. 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 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 new service area is in compliance with a DRBC approved NPSPCP.

t. 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 11, 2015

EXPIRATION DATE: March 11, 2025