

**DOCKET NO. D-2001-041 CP-3**

**DELAWARE RIVER BASIN COMMISSION**

**Discharge to a Tributary of Special Protection Waters**

**Borough of Topton  
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 28, 2020 (Application), for renewal of the docket holder's existing wastewater treatment plant (WWTP) and its discharge. The discharge is permitted by the Pennsylvania Department of Environmental Protection (PADEP) in National Pollutant Discharge Elimination System (NPDES) Permit No. PA0020711.

The application was reviewed for continuation of the project in the Comprehensive Plan and 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 May 12, 2021.

**A. DESCRIPTION**

- 1. Purpose.** The purpose of this docket is to renew approval of the docket holder's existing 0.3 million gallons per day (mgd) WWTP and its discharge.
- 2. Location.** The docket holder's WWTP is located at Pump Lane, West of the border to Topton Borough, in Longswamp Township, Berks County, Pennsylvania. The WWTP will continue to discharge treated effluent to Toad Creek at River Mile 183.67 – 16.4 – 18.6 – 3.7 (Delaware River – Lehigh River – Little Lehigh Creek – Toad Creek) and is located in the drainage area to the Lower Delaware Special Protection Waters (SPW).

Specific location information has been withheld for security reasons.

- 3. Area Served.** The docket holder's WWTP will continue to serve Topton Borough and a small portion of Longswamp Township located in Berks County, 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. **Design Criteria.** The docket holder's 0.3 mgd WWTP utilizes an extended aeration activated sludge treatment process with chlorine disinfection.

5. **Facilities.** The WWTP facilities consist of a screening/communitor chamber, a pump station, 2 selector tanks, two trains consisting of a stage 1 aeration tank, a stage 2 aeration tank, a final clarifier, each train also consists of an aerobic digester. The treatment trains flow to a chlorine contact tank, and de-chlorination/post-aeration tank before discharging. The sludge handling facilities on-site consist of sludge pump station and reed beds for sludge drying.

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 not staffed 24 hours per day and shall have a remote alarm system that continuously monitors plant operations in accordance with the Commission's SPW requirements. The existing WWTP has a remote alarm system installed that continuously monitors plant operations.

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.

6. **Water withdrawals.** The potable water supply in the project service area is provided by Tipton Borough Authority. The docket holder's water withdrawal is described in detail in Docket No. D-1973-121 CP, which was approved on July 27, 1973.

7. **N(J)PDES/SPDES Permit / DRBC Effluent Requirements.** NPDES Permit No. PA0020711 issued by the PADEP includes final effluent limitations for the project discharge to surface waters classified by the PADEP as supporting high quality water (HQ) and cold-water fishes (CWF). EFFLUENT TABLES C-1 & C-2 included in the DECISION section of this docket, contain effluent requirements for DRBC parameters that must be met as a condition of this approval (See DECISION Condition C.1.). Effluent requirements for Outfall No. 001 are based on a discharge rate of 0.3 mgd.

8. **Relationship to the Comprehensive Plan.** The existing WWTP was added to the Comprehensive Plan by Docket No. D-1974-178 CP on December 4, 1974. The WWTP approval was renewed and modified by Docket Nos. D-2001-041 CP-1 and D-2001-041 CP-2 on October 31, 2001 and September 10, 2014, respectively. Issuance of this docket will renew and continue the WWTP and its discharge in the Comprehensive Plan.

## **B. FINDINGS**

The docket holder submitted an application to renew approval of their existing 0.30 mgd WWTP and its discharge.

### **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. (Lower SPW)

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, DECISION Conditions C.4 and C.7 have been included in this docket.

Topton Borough and Longswamp Township are regulated by the PADEP as a Stormwater Phase II municipalities y and is permitted by PADEP as such. Topton Borough and Longswamp Township adopted and implemented a stormwater ordinance in accordance with the PADEP requirements. The PADEP Stormwater Phase II requirements satisfy the NPSPCP requirements of the Commission.

### **2. Other**

At the docket holder's WWTP discharge, the Toad Creek has an estimated seven-day low flow with a recurrence interval of ten years ( $Q_{7-10}$ ) of 0.23 mgd (0.35 cfs). The ratio of this low flow to the hydraulic design wastewater discharge rate from the 0.30 mgd WWTP is 0.77 to 1.

The nearest surface water intake of record for public water supply is located on Little Lehigh Creek approximately 19 River Miles downstream of the docket holder's WWTP and is operated by City of Allentown.

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 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-2001-041 CP-3 below, the project(s) described in Docket No. D-2001-041 CP-2 is removed from the Comprehensive Plan to the extent that they are not included in Docket No. D-2001-041 CP-3; Docket No. D-2001-041 CP-2 is terminated and replaced by Docket No. D-2001-041 CP-3; and the project and the appurtenant facilities described in Section A "DESCRIPTION" of this docket shall be continued in the Comprehensive Plan. 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](mailto: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 NPDES Permit and meet or are more stringent than the effluent requirements of the DRBC.

**EFFLUENT TABLE C-1: DRBC Parameters Included in NPDES Permit**

OUTFALL 001 (Discharging to Toad Creek)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	30 mg/l	As required by NPDES Permit
Dissolved Oxygen	5.0 mg/l (minimum at all times)	As required by NPDES Permit
CBOD <sub>5</sub> (at 20° C)	10 mg/l (Minimum 85% Removal)	As required by NPDES Permit
Ammonia Nitrogen (5-1 to 10-31) (11-1 to 4-30)	1.0 mg/l 3.0 mg/l	As required by NPDES Permit
Fecal Coliform	200 colonies per 100 ml as a geo. avg.	As required by NPDES Permit
Nitrate as N	Monitor & Report	As required by NPDES Permit

OUTFALL 001 (Discharging to Toad Creek)		
PARAMETER	LIMIT	MONITORING
Total N	Monitor & Report	As required by NPDES Permit
Total Dissolved Solids*	Monitor & Report	As required by NPDES Permit

\* See DECISION Condition C.6

The following monitoring requirements and average monthly effluent limits are for DRBC parameters not listed in the NPDES Permit.

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

OUTFALL 001 (Discharging to Toad Creek)		
PARAMETER	LIMIT	MONITORING
Total Dissolved Solids*	1,000 mg/l *	Quarter
CBOD <sub>5</sub> (at 20° C)	Monitor & Report Percent Removal	Monthly
CBOD <sub>5</sub> (at 20° C) Influent	Monitor & Report	Monthly
Nitrate as N	Monitor & Report	Monthly
Total N	Monitor & Report	Monthly
Phosphorus	Monitor & Report	Monthly

\* 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 is in compliance 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.** 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.
- 8.** 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 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.
- 9.** 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.
- 10.** The facility and operational records shall be available at all times for inspection by the DRBC.
- 11.** The facility shall be operated at all times to comply with the requirements of the Commission's WQR.
- 12.** 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.
- 13.** 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.

- 14.** 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.
- 15.** 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).
- 16.** 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.
- 17.** 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).
- 18.** 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).
- 19.** 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).
- 20.** 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.
- 21.** 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: June 9, 2021**

**EXPIRATION DATE: July 31, 2028**