

1 DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
2 OF THE STATE OF DELAWARE

3 RE: Artesian Water Allocation)
4 Permit Modification)
5 Chesapeake City Road)
6 Docket #2020-P-W-0030)

7

8 Virtual Public Hearing
9 Dial-In Number: 1-408-418-9388
10 Event Number: 179 899 3624

11 Thursday, March 11, 2021
12 6:00 p.m.

13

14 BEFORE: Lisa Vest, Hearing Officer

15 FOR THE DIVISION: Patricia Murray, Program Manager
16 Allocation Branch

17
18 -- Transcript of Proceedings --
19

20
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1 MS. VEST: Okay. The time is 6:00
2 p.m. I think that we are pretty much all
3 taken care of, so the connections seem to be
4 good, and we are going to try to start the
5 proceedings.

6 We do have a call in from the
7 applicant. We are going to hope that he can
8 hear us tonight. And we also have a speaker
9 lined up, or a commenter, I believe, lined
10 up. So apologies in advance if we have a
11 couple of glitches in the audio, but we will
12 make through.

13 Good evening. We are here this
14 evening. The date is Thursday, March 11,
15 2021.

16 We are here tonight to provide a
17 virtual platform for the State of Delaware's
18 Department of Natural Resources and
19 Environmental Control to conduct a virtual
20 public hearing on a water allocation permit
21 modification application from Artesian Water
22 Company.

23 The permit currently pending before
24 the Department concerns Artesian's Chesapeake

1 City Road well field which is located south
2 of Bear in New Castle County.

3 For those of you that may not
4 recognize me or know me, my name is Lisa
5 Vest, and Secretary Garvin has designated me
6 to be the hearing officer for tonight's
7 proceedings.

8 As many of you are aware, changes
9 were made last year to our public hearing
10 protocols. That was originally necessitated
11 by Delaware's ongoing state of emergency due
12 to the COVID-19 pandemic.

13 First and foremost, this hearing is
14 being conducted virtually. No one has
15 gathered together in the same room.
16 Everybody, as is obvious from some of the
17 glitches, is separate, participating
18 virtually in their own locations.

19 While there are no physical sign-in
20 sheets to document attendance as we would do
21 on a face-to-face hearing, WebEx, which is
22 the platform that we are using, does generate
23 an attendance list for events such as these,
24 and the Department will still be able to

1 maintain a record of those who have virtually
2 attended with us this evening.

3 And, again, I thank you for your
4 interest and your time taken in this matter.

5 At the conclusion of these
6 introductory remarks, I will be turning the
7 hearing over to representatives both for the
8 Department and Artesian so that brief
9 presentations may be offered for the record
10 being generated in this matter.

11 There is still a court reporter
12 that is virtually present. She will be
13 preparing a verbatim transcript of the
14 hearing tonight. DNREC has a statutory
15 requirement to do so. And, as always, that
16 transcript will be posted on the hearing
17 webpage dedicated to this matter as soon as
18 it has been prepared and received.

19 Following the conclusions of the
20 presentations, we will take live comment.
21 And, as I mentioned already, I believe there
22 is one member of the public who preregistered
23 to offer comment pursuant to the
24 preregistration protocols as set forth on

1 DNREC's public hearing website.

2 As is the case with all DNREC
3 public hearings, the Department wishes to
4 ensure that everyone is enabled to offer
5 comment for inclusion into the record being
6 generated.

7 Therefore, the record will not
8 close at the conclusion of the proceedings
9 tonight. Rather, it will remain open through
10 March 26, 2021 so that the public may offer
11 written comment for the record, should they
12 wish to do so.

13 I would encourage those attending
14 tonight to check out DNREC's webpage for
15 public hearings under the Administrative Law
16 section of our website for more detail.

17 All presentations, along with the
18 exhibits and all other documentation related
19 to this permitting matter, will be posted on
20 the Department's hearing webpage dedicated to
21 this particular permit, and the public may
22 gain a wealth of information by reviewing the
23 same.

24 Of course, all mechanisms

1 previously available by which to offer
2 comment remain in effect. We have electronic
3 links; we have e-mail; and, of course, the
4 United States Postal Service.

5 Also, the following protocols
6 remain in place for tonight's hearing:

7 Number one: All comment received
8 must be limited solely to the subject matter
9 of the hearing tonight. All comments
10 pertinent to that subject matter will be
11 incorporated into the record by myself being
12 generated in this matter.

13 In order to ensure that everyone
14 who wishes to offer comment for the
15 Secretary's consideration is accommodated,
16 again, the record will remain open through
17 March 26, 2021.

18 There is only one authentic record
19 of this formal proceeding tonight, and it is
20 the official court reporter's verbatim
21 transcript.

22 Number 4: The statutory purpose of
23 tonight's hearing is to build a record with
24 regard to this pending permitting matter and

1 to document the Department's actions
2 regarding the same.

3 A record consisting of the
4 transcript of the hearing tonight, all
5 written comments that are received, all
6 exhibits that are marked for the record, and
7 eventually my report will all be reviewed by
8 Secretary Garvin.

9 Secretary Garvin will ultimately
10 issue an order following that review process,
11 and the order will contain his decision
12 as well as the reasons therefore.

13 Lastly, it's important to note that
14 no decisions have already been made by the
15 Department, nor will any decisions be made
16 tonight regarding this pending permit.

17 Again, the comment period remains
18 open through March 26th so that members of
19 the public will have ample opportunity to
20 offer written comment for the record if they
21 wish to do so.

22 Comments may be submitted through a
23 comment form link on the hearing page, via
24 e-mail to DNRECHearingComments@delaware.gov,

1 or via the United States Postal Service at
2 the physical address for DNREC indicated on
3 the hearing page and the public notices that
4 have previously been issued in this matter.

5 Written comments to DNREC may not
6 be submitted using social media platforms
7 such as Twitter, Facebook, YouTube, or
8 various text messaging.

9 Lastly, please remember that all
10 comment received either through the United
11 States Postal Service or via the electronic
12 mechanisms noted just now, as long as it is
13 received by the Department on or before
14 March 26th, they will all bear the exact same
15 weight and will all be considered equal by
16 the Secretary prior to his making his
17 decision in this matter.

18 The ultimate decision regarding
19 this pending permit is made by Secretary
20 Garvin. We are here tonight, and this formal
21 hearing acts merely as a mechanism to enable
22 the Department to provide a platform for the
23 public to attend to find out additional
24 information about this matter and, again, to

1 learn how to offer comment, should they wish
2 to do so.

3 That being said, I am now going to
4 turn it over -- and where did you go? The
5 first glitch of the night. Okay. I'm going
6 to turn the screen over to Department staff.
7 They will put up the presentation. And I
8 believe Patty Murray will be offering the
9 narrative for that. That's going up right
10 now. Patty, are you good?

11 MS. MURRAY: Yes, I am.

12 MS. VEST: All right. You may
13 proceed when ready.

14 MS. MURRAY: So Lisa has already
15 gone over why we're here, a water allocation
16 modification for Artesian for Chesapeake City
17 Road system. And I'm Patty Murray. I'm the
18 program manager of the Allocation Branch.
19 Next slide.

20 This slide just explains what Lisa
21 has already also gone over is that why we
22 have to have this now virtually because of
23 the COVID-19 pandemic. Next slide.

24 So the purpose is so we can talk

1 about the existing allocation that's been
2 permitted since 2005 for the Chesapeake City
3 Road well field.

4 The current rates for this
5 application is 3,492,000 (3.4) gallons per
6 day, 104,760,000 (104.76) gallons per month,
7 and 1 billion and 95 million (1,095.0)
8 gallons per year.

9 Next slide. This is the project
10 location. Since 9/11, we are not allowed to
11 locate our wells, so we now have what this is
12 is those blue circles are wellhead protection
13 areas.

14 So all I can tell you is the wells are
15 in that vicinity, and these circles are where
16 they are located and really is as close to
17 identifying them as we can get.

18 So these public wells aren't
19 usually shared locations anymore.

20 So Chesapeake City is in Bear,
21 Delaware, in New Castle. It's west of 896.
22 This well was drilled in September of 2008,
23 and it's in the Potomac aquifer.

24 Next slide. So there are actually

1 two allocation numbers for this actual site
2 because the first well is in the upper
3 Potomac aquifer, and then there is three
4 other wells in the lower Potomac aquifer, and
5 this is one of the wells we are talking
6 about.

7 The Brennan well one and Brennan
8 well two are current and the same, but the
9 Chesapeake City Road well three is a
10 replacement.

11 So it was originally pumping
12 550 gallons per minute, and now they would
13 like to increase that to 850 gallons per
14 minute. So the total allocation has not
15 changed for this permit, just this one well.
16 Next slide.

17 So, again, this is the facility
18 information broken down. As I already said,
19 we have four wells, each pumping a certain
20 amount. And the only one we are concerned
21 about tonight is the change in well three,
22 again going from 550 to 850 gallons per
23 minute.

24 Next slide: The public notice was

1 placed on a 20-day period, as it is required
2 in the Delaware State News and the News
3 Journal. They were both advertised. It was
4 advertised November 8 to November 23rd, and
5 we had one written objection that we received
6 to the Department on November 30th. Next
7 slide.

8 This well allocation has been put
9 through a regulatory review like all of our
10 wells and all of our allocation permits, so
11 we conduct a desktop review first to
12 determine where it's going to be and that we
13 have done everything administratively and
14 regulatory to it.

15 And the next step is to have a
16 review by one of our hydrologists in the
17 section. And that's where this permit
18 certainly is now at.

19 Next slide: So this is my last
20 slide. And, again, this is our -- everything
21 for information is here. I know that's hard
22 to see for anyone that's not looking at the
23 presentation, but everything is listed here
24 at our hearing and our website. And that is

1 our link to it.

2 MS. VEST: Okay.

3 MS. MURRAY: Thank you.

4 MS. VEST: Thank you, Patty. Are
5 there exhibits that the Department wishes to
6 enter into the record at this time?

7 MS. MURRAY: Yes, there are. We
8 have seven exhibits that are all on the
9 website already. So I would like to have all
10 of these seven exhibits added into the
11 record.

12 MS. VEST: Okay. Just for
13 clarification purposes for the record, the
14 exhibits that you are wishing to be put in at
15 this time, they are the same ones that are
16 posted on the hearing webpage, and they have
17 not been changed or modified in any way since
18 that posting?

19 MS. MURRAY: They are the same,
20 yes, the same seven, and they have not been
21 modified.

22 MS. VEST: Okay. Thank you, Patty.
23 Let the record reflect that the exhibits
24 posted as DNREC exhibits on the hearing

1 webpage dedicated to this matter with
2 Artesian are hereby entered into the hearing
3 record, and I thank Department staff for that
4 presentation.

5 Is there anything that the
6 Department wishes to add at this time for the
7 record?

8 MS. VEST: No.

9 MS. MURRAY: I have nothing to add,
10 no.

11 MS. VEST: Okay. Just checking.
12 And thank you again, staff.

13 At this point I am crossing my
14 fingers and hoping that Barry Price for --
15 hmm, Barry, I hope you can hear me. Barry,
16 can you hear me?

17 MR. PRICE: I can hear you. Can
18 you hear me?

19 MS. VEST: I can hear you.
20 Excellent. Excellent.

21 Barry, you are the representative
22 for the applicant, which is Artesian in this
23 matter.

24 It's my understanding that you are

1 just going to take this opportunity to say a
2 few words. But you have previously provided
3 a very brief Power Point presentation. I
4 believe it's a few slides. And we are going
5 to put that up on the hearing webpage,
6 as well.

7 Let the record reflect that
8 Mr. Price's Power Point will be posted for
9 the public to review, and it will be labeled
10 as Applicant's Exhibit Number 1.

11 And, in fact, it already is up on
12 the website. It was done late this
13 afternoon. And I thank the applicant for
14 that contribution.

15 Mr. Price, the floor is yours.

16 MR. PRICE: Okay. Thank you. So,
17 as Patty said, this application was submitted
18 because we replaced one of the existing four
19 wells at our Chesapeake City Road well field,
20 which is the existing well field that's been
21 in operation for over 15 years, has four
22 wells in the upper and lower Potomac aquifer.

23 At the time of our first allocation
24 permit application, we did expansive testing

1 on these wells to support that application.
2 The allocation was granted for a daily rate
3 of 3.42 million gallons per day, with an
4 annual average of 3.0 million gallons per
5 day, or 1,095,000,000 gallons per year.

6 All water withdrawn from these four
7 wells is treated at the Chesapeake City Road
8 site at an on-site water treatment facility.
9 All water produced by that plant meets
10 primary and secondary drinking water
11 standards and is regulated by the Office of
12 Drinking Water of the State of Delaware.

13 We submitted this application
14 because we replaced well three at Chesapeake
15 City Road and replaced it with a new well
16 called Well 3R. The R stands for
17 replacement.

18 So the purpose of the application
19 is to remove the original well three and to
20 replace it with the replacement well 3R.

21 At this point well 3R has been
22 permitted, constructed, and tested, and all
23 those results have been submitted to the
24 Department.

1 The new well 3R has a higher
2 capacity than the original well three, so
3 when we filed our permit, we requested an
4 increase in the individual pumping rate from
5 this well from 550 gallons a minute to
6 850 gallons a minute with no increase in the
7 total well field withdrawal on a daily,
8 monthly, or yearly basis.

9 So in order to pump this well at a
10 higher rate, we would have to pump some of
11 the other wells at a lower rate so there
12 would be no total net change.

13 The existing allocation application
14 is identical to the existing allocation at
15 3.492 million gallons per day,
16 104.76 million gallons per month, or 1
17 billion 95 million gallons per year, which
18 again comes out to an average of 3 million on
19 a daily basis.

20 And that concludes our
21 presentation.

22 MS. VEST: Okay. Thank you,
23 Mr. Price. Again, I appreciate the
24 information provided for the benefit of the

1 record.

2 And, again, if anyone out there in
3 the public wishes to review the details
4 concerning what Mr. Price just spoke of, it
5 is on the hearing webpage under Applicant's
6 Exhibit Number 1.

7 At this time I believe that we do
8 have our caller live. Sir, can you hear me?
9 Mr. D'Amico, are you there? I think we are
10 trying to get him. Okay, Mr. D'Amico?

11 MR. D'AMICO: Yes.

12 MS. VEST: Okay. I can hear you.
13 I can hear you. You are the only one that
14 has preregistered to speak tonight. I don't
15 believe, since you are on the phone, that you
16 can see the timer that's on the screen, but
17 --

18 MR. D'AMICO: I have a stopwatch in
19 front of me.

20 MS. VEST: Okay. Okay. Very good.
21 Well, you will proceed --

22 MR. D'AMICO: Three minutes?

23 MS. VEST: Yep. You will proceed
24 when you want to.

1 MR. D'AMICO: Number one, I want to
2 know if the water is coming from a confined
3 aquifer or a non-confined aquifer. Can Barry
4 tell me that right now?

5 MS. VEST: Your comments are being
6 noted for the record.

7 MR. D'AMICO: Okay.

8 MS. VEST: And we will make sure
9 that the Department gets back to you on that.

10 MR. D'AMICO: I want to know how
11 deep the aquifer is, how wide, and how long.
12 And don't tell me it can't be done with
13 today's modern technology and infrastructure.
14 You can find out. Number one.

15 Number 2. Number 3. Never mind
16 the numbers.

17 Where is the water coming from?
18 Because our water late at night has got a
19 funny smell to it, and I wonder if they are
20 taking it out of the Chesapeake, Susquehanna,
21 or the Delaware.

22 And I said this before. We have
23 run out of water, or else they flushed the
24 toilets in Harrisburg, and Wilmington needs

1 the water. You think it's funny.

2 Number 4: When we first moved here
3 from north Delaware, we paid \$6.12 a year for
4 distribution system improvement charge, two
5 different charges. Now it's up to 573. It
6 comes out to \$51 and \$55 a year.

7 How come the current residents have
8 to pay for all this new distribution and
9 system improvement charges when the people
10 moving in from north Jersey and New York
11 because Chase and JP Morgan and First Trust
12 all moved them down here, make them pay for
13 the new houses they are moving into when
14 averaging out of the new homes.

15 So these are some of the things I
16 have. The biggest one is where the water is
17 coming from and how deep the aquifer is. And
18 nobody seems to know.

19 And what is the limit of it?

20 If you go west to the Mississippi,
21 all they talk about out there is water. They
22 don't talk about roads. They don't talk
23 about violence. They talk about water.

24 People on the East Coast have no

1 idea about water because they think it's
2 plentiful. Well, our water is starting to
3 smell funny. And I have smells in my bathtub
4 every week that I spray with bleach. And I'm
5 wondering where the hell is this coming from.

6 I think I've covered everything.
7 That's it.

8 MS. VEST: Okay. Thank you very
9 much for those comments. As I said, sir,
10 they are being recorded and getting put in
11 the record by the court reporter. It will be
12 captured in the transcript.

13 And as soon as we get that, like I
14 said before, the transcript will be posted,
15 as well, so that members of the public can
16 review that.

17 At this point, since that was the
18 only commenter who preregistered, I am going
19 to proceed to closing tonight's proceedings.

20 Again, I want to thank everybody
21 for taking the time to join us. The record
22 will remain open, as I said before, through
23 March 26.

24 And all comment bears the same

1 weight. So whether we received it prior to
2 the hearing, whether it came in like the
3 gentleman did just now live during the
4 hearing, or whether the written comment comes
5 in at any point from now through March 26,
6 2021, as long as it's in writing, as long as
7 it pertains to the subject matter of this
8 hearing, it will all bear the same weight,
9 and we will make sure that the Department
10 responds to the same for the record prior to
11 the Secretary making his final conclusion in
12 this matter.

13 Thanks, everyone, for attending.

14 This meeting is adjourned.

15 (Concluded at 6:19 p.m.)
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1 CERTIFICATE

2 I, Lorena J. Hartnett, a Notary Public and
3 Registered Professional Reporter, do hereby certify
4 that the foregoing is an accurate and complete
5 transcription of the proceeding held at the time and
6 place stated herein, and that the said proceeding
7 was recorded by me and then reduced to typewriting
8 under my direction, and constitutes a true record of
9 the testimony given by said witnesses.

10 I further certify that I am not a relative,
11 employee, or attorney of any of the parties or a
12 relative or employee of either counsel, and that I
13 am in no way interested directly or indirectly in
14 this action.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand and affixed my seal of office on this 18th day
17 of March 2021.

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Lorena J. Hartnett
Registered Professional Reporter