



# Upper Delaware Council

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## UPPER DELAWARE COUNCIL MEETING MINUTES

January 5, 2023

The Upper Delaware Council held its monthly meeting on Thursday, January 5, 2023. Chairperson Boyar called the meeting to order at 7:00 p.m. and roll call followed.

In attendance: Town of Hancock- Fred Peckham (Zoom), Town of Fremont- Jim Greier, Town of Delaware- Harold Roeder, Jr., Town of Cohecton- Larry Richardson, Town of Tusten- Evan Padua, Town of Highland- Andy Boyar, Town of Deerpark- Virginia Dudko, Town of Lumberland- Nadia Rajs (Zoom), Damascus Township- Jeff Dexter, Berlin Township- Alan Henry, Lackawaxen Township- Doug Case, Shohola Township- Aaron Robinson, State of New York- Ryan Coulter (Zoom), Commonwealth of Pennsylvania- Christine Dettore (Zoom), Delaware River Basin Commission- Kristen Bowman Kavanagh (Zoom), National Park Service- Kara Deutsch. Absent: Westfall Township. Staff in attendance: Executive Director- Laurie Ramie, Resources and Land Use Specialist- Kerry Engelhardt, Secretary- Ashley Hall-Bagdonas. Guests: David Yoxtheimer, Ph.D. (Zoom), Bill Dudko- Town of Deerpark Alternate, Barbara Arrindell (Zoom), Alex Garcia-Maldonado- NPS (Zoom), Don Hamilton- NPS (Zoom). Media: Rosie Starr- WJFF (Zoom), Liam Mayo- River Reporter (Zoom), Peter Becker- Tri-County Independent (Zoom).

**Election of 2023 Officers:** Boyar referenced the written ballot included in members' packets. The Nominating Committee's slate of officers was presented. Candidates were: Chairperson- Aaron Robinson, Shohola Township; Vice-Chair- Virginia Dudko, Town of Deerpark, and Secretary-Treasurer- Al Henry, Berlin Township. There were no nominations from the floor. A motion by Richardson seconded by Greier to cast a ballot for the nominees as presented carried unanimously.

Boyar thanked his colleagues and the staff for all their work this year, saying that the UDC managed to fill its River Management Plan duties and responsibilities. He said the biggest goal of 2022 remains our biggest challenge: funding. We made progress in raising awareness, then November came and changed the reflection of our representation at the federal and state levels. He is sure that Robinson will be up to the task. He is grateful that we got through COVID and seem to be getting back to normal. Robinson thanked Boyar "for shepherding us through kind of a hard year" and said he feels that Boyar helped open some doors for the UDC. Boyar invited Robinson to take his place in the Chairman's seat. Members congratulated Robinson.

**Presentation: "Water Resource and Environmental Considerations with Shale Gas Development in the Appalachian Basin" by David Yoxtheimer, Ph.D., P.G., assistant research professor and Extension associate with the Marcellus Center for Outreach and Research at Penn State University:** Robinson said UDC is fortunate to have a presentation tonight by Dr. Yoxtheimer on fracking. Yoxtheimer is quite accomplished with a PhD in Hydrology, an Earth Scientist and Geoscience Professor and part of Penn State University's Marcellus Center for Outreach and Research, and notably on Governor Wolf's Pennsylvania Department of Environmental Protection Oil and Gas Technical Advisory Board as the Chairperson. A PowerPoint presentation was shown by Dr. Yoxtheimer starting with a slide depicting the Marcellus Shale which spans across the Southern Tier of New York through much of northern and western Pennsylvania into Ohio and down through western West Virginia. It is estimated to be one of the largest shale basins in the world with about 500 trillion cubic feet of recoverable natural gas using today's technology. Utica Shale is located from 2,000 to 5,000 feet below the Marcellus depending on location. Most of the drilling of the Utica Shale takes place in Ohio and the furthest east it's been drilled is Tioga County, PA. Dr. Yoxtheimer showed a slide depicting the conventional wells drilled by year from 2004-2019 in Pennsylvania, West Virginia, and Ohio. In Wayne County PA, there were four wells drilled within the Delaware Basin which were

test wells where in early 2009-2010 companies were exploring the potential for the Marcellus Shale but soon after the ability to drill in the Delaware River Basin was taken off the table. They have about 13,000 wells drilled in Pennsylvania in both the Marcellus and Utica. The Marcellus is the most prolific as far as production goes.

A slide of the Appalachian Basin natural gas production was explained. Current production of 25 Trillion Cubic Feet (TCF) of shale gas is predicted to increase to 33 TCF of shale gas by 2050 (~15 TCF from Marcellus and Utica). Yoxtheimer said, from an energy standpoint, these are very strategic sources of energy but there are potential environmental impacts to be considered.

Yoxtheimer explained the phases of Shale Energy Water Management. There is water acquisition (where is the water coming from). In this part of the world, it is mostly surface water and a little bit of groundwater. You are bringing that onsite and mixing it with the various additives during the hydraulic fracturing process to optimize the overall process of fracturing and enhance production. You're injecting the fluids down into the shale to create fractures. Once that process is complete you are going to start to produce gas and along with the gas you will have some of those fluids that were injected down into the shale come back up along with naturally occurring brines that exist in the shale that in essence were originally deposited and trapped in the shale which is roughly 390 million years old when talking about the Marcellus and about 420 million years old when talking about the Utica Shale. Yoxtheimer said the fluids that come back out of the well tend to have residual concentrations with the additives that were used for hydraulic fracturing but they also bring out a host of contaminants from deep in the earth such as naturally occurring salts, metals like barium and strontium, and you can have naturally occurring radioactive materials such as radium and radon. Yoxtheimer said collectively, even though these are occurring naturally doesn't mean they couldn't be harmful to us. That's why the waste stream needs to be properly managed. There's a whole host of regulations at the state level to ensure those fluids are to be handled properly to minimize environmental impact while saying obviously regulations are only as good as the associated enforcement.

Yoxtheimer said when we think about the amount of water being used from the Susquehanna River Basin, the gas industry is using about 24 million gallons per day (MGD) which is a little less than 10 of the 263 MGD that's withdrawn daily in the Susquehanna Basin alone. Roughly a third of that goes for power generation cooling, another third is water supply and the third leading withdrawal is for the natural gas industry. Then there's a host of other water uses such as agricultural, manufacturing, recreation, pipeline mining, and a variety of other sectors. Yoxtheimer provided a slide showing Susquehanna River Basin shale energy water withdrawals between 2005 and 2018 where at one point the industry was withdrawing up to 14 MGD and then it dropped down to around 7 to 8 MGD. A typical well will use roughly one to two million gallons per thousand feet of lateral. These are horizontal wells that are being drilled into the shale so depending on how long the well is active dictates how much water is used per well but it's pretty common to see somewhere in the neighborhood of 10 million gallons per well and up to 20 gallons per well for some of the longer laterals. In all of Pennsylvania, surface water makes up 90% of the freshwater being used. Public sources and groundwater make up the majority of the balance. They have seen a significant increase in the produced fluids coming back after the well is fractured. Anywhere from <10 to >80%. Yoxtheimer explained produced water management options. There is Direct reuse, collecting them and then using them to fracture the next well. Collectively, the industry has gone more toward trying to reuse the fluids in the field which keeps the risks and the carbon footprint down.

Yoxtheimer said when they think about some of the produced water management options (produced water is the fluids that return after the well has been fractured) that is coming out along with the natural gas, it's got high total dissolved solids. The salinity may approach being 10 times saltier than the ocean, etc., so this water needs these fluids to be properly managed. "This was an issue especially 14, 15 years ago when not as much was known about the subsurface geology," Yoxtheimer said. "Some of the shallow methane especially caught the industry off guard; the wells weren't drilled to contain it." New regulations to seal off shallow gas during well construction, as well as industry-standard pre-drilling well testing, can help mitigate these issues. Transport of fluids to injection wells carries with it risks of contaminations; they get carried by trucks, which can lead to spills and leaks. Yoxtheimer said these tend to be very controversial projects, as you can imagine. While the EPA will say that this is the safest way to dispose of these brines, the public might not exactly be buying that, and that's understandable. Dr. Yoxtheimer concluded by saying there are certainly challenges. He's not trying to minimize anything, but he's also trying to say there are things they can do to minimize these risks and minimize the potential environmental impacts. Whether we want to admit it or not, this is an energy source that most of us use on a daily basis; we're in an energy-hungry world, and we do have to find cleaner sources of energy and minimize the associated potential environmental

impacts. A brief question and answer session followed. Yoxtheimer said he would provide a copy of his presentation for members and thanked the Council for inviting him. A recording of the presentation can be found at: <https://www.youtube.com/watch?v=zd2orJ-zmhM>

**Approval of November 3, 2022 and December 1, 2022 meeting minutes:** A motion by Boyar seconded by Dudko, to approve the November 3, 2022 and December 1, 2022 meeting minutes carried with an abstention by Richardson for the December minutes in his absence.

**Public Comment on the Agenda:** None.

**Committee Reports:** *There were no questions regarding previously distributed minutes:* Project Review, Nov. 22 & Dec. 13<sup>th</sup> (Larry Richardson); Operations, Nov. 22 & Dec. 13<sup>th</sup> (Andy Boyar); Water Use/Resource Management, Nov. 15 & Dec. 13<sup>th</sup> (Ginny Dudko).

### **Status Reports**

**Delaware River Basin Commission:** Bowman Kavanagh shared there is a Regulated Flow Advisory Committee meeting scheduled for Tuesday 1/24. On 2/8 is the Water Management Advisory Committee meeting. Advisory committee meetings coming up are listed on their website: <https://www.state.nj.us/drbc/meetings/>

The DRBC had its Regular Meeting on 12/7 at which the Commissioners approved the proposed rules on the importation and exportation of wastewater into or out of the Delaware River Basin as well as prohibited the discharge of wastewater from high-volume Hydraulic Fracturing activities. Information on the DRBC's final rule on water imports, exports & the prohibition of HVHF wastewater discharges can be found on the DRBC website; the link to the FAQs is under the Key Information heading: <https://www.nj.gov/drbc/about/regulations/final-rule-import-export-hvfh-discharge.html>

DRBC Executive Director, Steve Tambini, authored a guest commentary last week in the *Bay to Bay News* that provides an overview of the February 2021 HVHF prohibition and December 2022 regulations as well: <https://baytobaynews.com/stories/guest-commentary-new-rules-protect-shared-delaware-river-waters>

A copy of the hydrologic report was provided in the meeting packet.

**NYS Dept. of Environmental Conservation:** Coulter put in a request for funding for paving at the Highland Access site and is waiting to hear back on that. He said the official NYS appointment of a UDC representative is pending.

**PA Bureau of Recreation and Conservation:** Dettore said Dugan facilitated arrangements for a 3/2 UDC presentation by Nathan Reigner, who is Pennsylvania's Director of Outdoor Recreation, and plans to appear in person.

Dettore said they have completed the fall round of supplemental grant applications. They will start accepting the next round of grant applications for the Bureau of Recreation and Conservation on 1/17 through 4/5.

**National Park Service-Upper Delaware:** Deutsch shared that she will be at UPDE for another two weeks and the new Superintendent Lindsey Kurnath will be starting sometime during the week of 1/15. Kurnath and Deutsch will overlap a little bit. A new Biologist will be starting 1/29 who will be working with Don Hamilton.

The Delaware Highlands Conservancy will once again be hosting guided eagle watch tours. That starts this Saturday, 1/7 at Zane Grey Museum. More information on the tours can be found here: <https://delawarehighlands.org/events/>

Deutsch said that they are also working on bridge repair permitting, and that the positions for Community and Land Use Planner and Administrative Officer will be posted.

NPS Cultural Resource Manager Alex Garcia-Maldonado has been working on transcriptions of oral history interviews along with the help of a volunteer. Once completed they anticipate having those interviews online.

**UDC Executive Director's Report:** Ramie said she occasionally reports on the typically modest but always appreciated individual donations that the UDC receives to support our non-profit work. Imagine her surprise when we opened an envelope yesterday and found a check made payable to the Upper Delaware Council in the amount of \$10,000! This is the largest single donation we have ever received during her 25-year tenure and did not seem real at first, but an accompanying letter from Warren & Donna Cella of Butler, Pennsylvania reads, "...Please accept this check as donations for the following: \$5,000 – In Memory of my deceased brother, Robert Cella, a former life-long resident of Barryville, New York; and \$5,000 – In Honor of Aaron Robinson (an Upper Delaware Council Board Member and resident of Shohola, PA), who is a life-long family friend and who was a guardian angel to my brother in his final days." Ramie immediately shared this with Robinson, who was equally shocked and touched, while telling her more about the family. Since this is so fresh, we have not acknowledged it yet but she does have a phone number and address. As to what to do with this money, a letter from the Morgan Stanley Global Impact Funding Trust on behalf of the Cella Charitable Trust states, "You may apply this grant as you determine in your discretion." She recommends proceeding with the recent suggestion to start an investment portfolio for a portion of the Council's non-federal funds, seeded with this endowment. Before this happened, Ramie had advised Dick Eckersley that we wanted to discuss that idea with him on Jan. 24 when he presents the Fiscal Year 2022 audit at the Operations Committee meeting, so the timing of this is really perfect.

Before this news, Ramie was excited to say how well our t-shirt sales are going since that serves as a fundraiser for us. On Tuesday, for example, the new owners of the Ascalona Campground in Barryville came in to introduce themselves and buy 12 shirts at \$180.

On a larger scale, you will find on our Facebook page or in email inboxes for NYS town members a link to a petition directed to Gov. Hochul to support the continuation of a dedicated funding line in the Environmental Protection Fund budget for the Upper Delaware River Watershed, which received \$300,000 as a first-time allocation in 2022. As of this afternoon, the petition had 775 signers.

On Dec. 28, Ramie finalized our Fiscal Year 2022 Federal Financial Report and Performance Progress Report for submission to the National Park Service. Administrative Officer Michelle Blockberger acknowledged receipt on Dec. 29 before she was due to leave her Upper Delaware Administrative Officer position and she hasn't heard anything further. The FFR is fairly simple in documenting that we received \$300,000 in federal funds to operate and spent all of it as documented by our monthly abstracts of expenditures, while the PPR is a 24-page narrative report listing all our accomplishments from Oct. 1, 2021 through Sept. 30, 2022 which took multiple, tedious days to compile. We will be posting that PPR on our website rather than handing it out, unless anyone would like to request a hard copy.

The new calendar year finds us busy updating our membership directories, with Hall-Bagdonas having sent out 2023 UDC delegate forms to each town and township to confirm any appointment changes. We will verify quorums and elect chairs for our three standing committees on the 3<sup>rd</sup> and 4<sup>th</sup> Tuesdays this month. Ramie checked with the IRS to find that the updated standard business mileage reimbursement rate increased on Jan. 1<sup>st</sup> to 65.5 cents. We will be updating our contact list for state and federal representatives as their offices get assigned, sending letters and requesting appointments to meet new lawmakers. We'll speak about the annual requirements to file Conflict of Interest disclosure statements and participate in sexual harassment prevention training under New Business.

Please check our January and February calendars in the packets for upcoming meetings, deadlines, and activities. Feb. 2 UDC we will have our formal swearing-in ceremony with an officiant of Robinson's choosing and a reception for the new officers.

### **Old Business**

**Personnel Subcommittee Report:** Henry reported that the Personnel Subcommittee met and addressed some concerns and everything is good.

**Other:** Robinson said that inflation continues to eat up the UDC's federal funds and our campaign to get funding from the two states as intended in the River Management Plan remains critical. We have been to visit their offices multiple times. He would like to set up a meeting among our funding partners here next month to explain our situation. That's Step 1. If we can't get participation, we can consider moving on to Step 2, which is to ask a judge

to review the legislation that created this Council. A Motion by Henry seconded by Dexter for the Executive Committee and Ramie to arrange an on-site meeting in February of the UDC funding partners as cited in the 1986 River Management Plan, seeking the highest level of representation.

### **New Business**

**Draft Resolution 2023-01: Authorizing Signatories for UDC Bank Accounts in 2023:** Motion by Richardson seconded by Roeder to approve Resolution 2023-01 carried.

**Draft Resolution 2023-02: Reaffirming Sexual Harassment Prevention Policy for 2023:** A Motion by Henry seconded by Dexter to Reaffirm the Sexual Harassment Prevention Policy for 2023 carried. Staff and UDC board members agreed to arrive for the 2/2 UDC meeting at 6:30 p.m. to view the approximately 45-minute Sexual Harassment Prevention video and have an interactive discussion to collectively complete the NYS workplace annual training requirement.

**Annual Conflict of Interest Disclosure Statement and 2023 UDC Meeting Dates:** Hall-Bagdonas provided a copy of the Conflict-of-Interest Disclosure Statement in the member packets as well as a list of 2023 meeting dates. All representatives and alternates are asked to please fill out the Conflict-of Interest Disclosure Statement and return them to Hall-Bagdonas by 2/2.

**Other:** None.

**Public Comment:** None.

**Adjournment:** A motion by Greier, seconded by Henry, to adjourn the meeting at 8:52 p.m. was carried.