

Upper Delaware Council
PROJECT REVIEW COMMITTEE MEETING MINUTES
November 28, 2023

Committee Members Present: Harold Roeder, Dennis Bernitt, Al Henry, Aaron Robinson, Fred Peckham (Zoom), Ginny Dudko (Zoom), Larry Richardson

Committee Members Absent: Andy Boyar, Jeff Dexter

Staff: Laurie Ramie, Kerry Engelhardt (Zoom), Stephanie Driscoll

NPS Partners: Lindsey Kurnath, Don Hamilton (Zoom), Alex Garcia-Maldonado (Zoom)

Guests: Bill Dudko

The UDC's Project Review Committee held its monthly meeting on Tuesday, November 28, 2023 at the UDC office in Narrowsburg, NY. Chairperson Richardson called the meeting to order at 8:15 p.m. There was no public comment on the agenda.

Approval of October 24, 2023: A motion by Robinson seconded by Henry to approve the 10/24 meeting minutes carried.

Resources and Land Use Specialist Update:

New York State Projects

There were no posted Notices of Applications Received yet by the DRBC in November in the river corridor in NYS.

Town of Tusten

Engelhardt reported that there are no new updates on the pavilion project at the Narrowsburg Flats.

Town of Hancock

Engelhardt said the Junction Pool Access had recently received funding in the form of two grants. She reached out to Richard Lowe of the Hancock Partners to let him know that the plans will need to be reviewed by the UDC and NPS. Peckham asked if the majority of the project is in Buckingham Township. Ramie said Peckham is thinking of a different access. This is on the Bard-Parker Road, specifically in Hancock. Peckham said he knows the Hancock Partners have a new area that is in Buckingham, on the PA side. Engelhardt said this is something different.

Commonwealth of Pennsylvania Projects

There were no posted Notices of Applications Received yet by the DRBC in November in the Upper Delaware River Watershed in the Commonwealth of Pennsylvania.

Lackawaxen Township

Earlier in the year the UDC had received some correspondence from the owner of Holbert Quarry, Wayne Holbert, about expanding his operations. He has applied for a large mining permit from the PA DEP. There was no submission to the UDC or NPS yet. Holbert had sent a letter to both UDC and NPS asking for a letter of support. We responded back letting him know what the process is. Holbert reached out to his local representative and a meeting was organized by state Senator Lisa Baker on October 27th. In attendance were Senator Baker, Pennsylvania State Representative Joe Adams, representatives from Pennsylvania Department of Environmental Protection, the three Lackawaxen Supervisors, the township's solicitor, Holbert Quarry representatives including Wayne Holbert and the lease holder Steve Caruso, Ramie, Richardson, Henry and herself to represent the UDC, and Kurnath and Hamilton were there for the NPS.

Holbert started by giving the history of the quarry and then made his case on being able to expand the working area of the facilities. He said there isn't sufficient room to work and the quarry has been there since before the RMP was developed and is not visible from the river due to the elevation, with no current complaints or environmental issues. He also at times, both historically and at this meeting, takes issue with the existence of the RMP, the UDC in general, and the location of the boundaries of the river corridor which he refers to as a political construct rather than a legal entity. Holbert expressed his frustration with trying to obtain the permit for the last 2 ½ years and not getting anywhere.

Holbert Quarry seeks to modify two special conditions of their current permit that limit how they mine for bluestone and aggregate. There is a letter included in the packet that they sent out before the meeting to explain the ask. There was a lot of discussion among all of the parties. The representatives from the PA DEP were asked if they would grant a large quarry permit if the property was not located within the river corridor. They responded yes, but it is. They are not looking to start litigation with a federal agency. They will not grant the permit until the proper documentation is obtained from the UDC and NPS to agree to exempt or lift the restrictions. Holbert also proposed that Lackawaxen Township withdraw from the RMP. Engelhardt told him he couldn't do that; you can withdraw from the UDC, but you still have to follow the rules of the RMP. Kurnath was understanding but clear on expressing what the UDC and NPS could and could not do. She said during the meeting in Honesdale, the flexibility within the RMP comes from explaining how the goals and objectives will be met. We rely on definitions and the Table of Compatible Uses in that all major mining surface operations are non-conforming based on their acreage. Richardson added that we need to be consistent with how those are applied within the corridor.

Much of this seems to depend on whether the proposed expansion should be considered a new facility, since that's how they are defined in the RMP. On one hand the quarry has existed since before the RMP was implemented, on the other it was nowhere near the scale that it is presently let alone what is proposed. Holbert Quarry showed plans noting that the current operation is 23.3 acres with a 60.5-acre support area. Mining deeper was discussed, but isn't feasible on such a small scale. It would be more costly and since the sides are on a slope there isn't enough to work with. The current plan operations show "reclamation areas" that they are supposedly done mining that they have reclaimed. The areas were seeded with grass, but now they are storing stone and aggregate on those areas. It seems like they are using more working area than they are showing on any current plans. The PA DEP has been there and inspecting. The quarry is already using what they are allowed and more. The next recommended step was for Holbert to reach out to an attorney, not to begin litigation but to gain clarity regarding the definition of the proposed expansion on whether it's considered new or pre-existing non-conforming use. The Lackawaxen Solicitor said their best option may be to show how the use was grandfathered in or that it should have always been listed as a non-conforming use. The UDC also clarified that it doesn't need to be the township that submits the Conditional Use Application. The PA DEP (since the state is a participating partner) could also submit the application to the UDC.

Richardson said the operation has lacked a continuous use since the RMP was implemented. It's his understanding that Holbert decided to start the operation back up. In NYS they look to see if there has been a period of inactivity since being grandfathered in. If the operation has been idle and not used for a number of years, it no longer is grandfathered in. Richardson told Holbert that he appears to be successful and Holbert acknowledged that. It's not a question of a hardship, where the applicant needs to have recourse. What Holbert's management team said was that the business could be hugely successful if the quarry was opened up. That is not the UDC's responsibility. Kurnath said they said they have been a successful "mom and pop" operation, but they ask why should the RMP limit us to be a "mom and pop?" She said there was a lot of talk about how great the quarry's record has been, but it doesn't matter about their record. Afterwards she received a letter from Holbert that was obvious he did not write in consultation with anyone he was with during the meeting. She has not written back yet. It doesn't make a new request other than to write a letter of exception that NPS and

the UDC have said we can't do. Even if the RMP would allow the operation, that's not the process. When she writes a response, she will share a copy with the committee. Henry asked if the committee could read a copy of the letter. Kurnath said she sent it to Ramie, Richardson and Engelhardt. Ramie said she will forward it to the committee. She also has a copy of the plans if anyone is interested. Kurnath said she asked the DOI Solicitor after finding some files of correspondence between Kris Heister, Carla Hahn and the DOI Solicitor on the last resurrection of the Holbert question. At that time the DOI Solicitor agreed that if there were supporting factors, the only way the conversation could carry would be if the operation was grandfathered in. It would not mean that anything would be granted; it means there would be other criteria to determine. The mining would still be viewed as a clear and direct threat to the corridor. The DOI Solicitor said they didn't have access to the 2012 settlement agreement and it would be helpful to see. The UDC and NPS have made it clear that the burden is on Holbert to make their case on why they feel they should never have been considered new.

Henry reported that Holbert said it was 1992 when the business started going, after saying the operation should be grandfathered in. He doesn't see where it can be grandfathered in. Richardson said if there was any discussion about that it would be during the legal process. Richardson said he met with the UDC Lackawaxen representative to let him know there may be discussion about whether Lackawaxen should remain part of the UDC. The representative said the UDC has been good to Lackawaxen over the years. Richardson said they can resign from the UDC if they chose, but they then fall under the purview of the NPS, and he understood that. Roeder asked if there is extra acreage to find what Holbert wants to do. Richardson said he doesn't want to expand his whole quarry, but they work now in 2 acres and 2 acres. Because he had two permits (that he could remember) running simultaneously when he applied is why they allowed him to operate 4 acres and 4 acres. He was allowed to combine the permits. Now he wants to be able to open 16 acres. Henry said according to the PA DEP, that's an approved site.

Robinson said we should have one meeting a year that we encourage one supervisor from each town/township to come to. It would be good to familiarize them on what we do. Richardson agreed. Kurnath said on Monday Carly Marshall, the new NPS Community Planner, starts and Engelhardt is still relatively new. It feels to her the NPS relationships with the towns/townships aren't always great. She was wondering if they could do a "road show" like they did when the Project Review Workbook came out. She and Engelhardt talked about the idea of getting out, making more connections and meeting people in leadership positions. She thinks it would be good for Marshall and Engelhardt to meet people too. Richardson agreed, maybe plan a Saturday morning after the New Year when the new representatives are installed to invite them here with the NPS as a participant to educate them. We need to raise the importance of the UDC in the eyes of elected officials. Robinson suggested getting a larger space to educate people. Kurnath said that maybe we do both, a "road show" and an invitation to an educational program. Richardson said we could open the invitation to the public too. Some town/townships are better about sending information to Engelhardt, maybe this would help if we invite planning boards.

Engelhardt reported there are no substantial conformance reviews currently open. The only active project is Camp FIMFO. The Town of Highland Planning Board prepared a Draft Environmental Impact Draft Scoping Document. They were accepting comments through November 22nd on the Draft Scoping Document. Both NPS and the UDC submitted comments separately. She assumes the project is on the agenda for tomorrow night's meeting (Wednesday, 11/29), but there hasn't been any agenda posted yet. All contracts for the TAGs have been signed, mid-term reports are due in February and the mapping project is ongoing.

Open Substantial Conformance Reviews

Project ID	Project Name	Municipality	Action	Status
2022-03	Camp FIMFO	Town of Highland, NY	Class II – Special Use Permit	NPS issued a letter dated July 17, 2023 indicating that the project does not substantially conform to the RMP. A supporting report was also issued. Closed.
2023-08	Narrowsburg Car and Dog Wash	Town of Tusten, NY	Class II – Site Plan Review	Substantial Conformance recommended to the NPS 9/13/23. NPS agreed with UDC Determination 10/24. Closed.
2023-09	Green Acres Gunsmithing	Town of Tusten, NY	Class II – Site Plan Review	Substantial Conformance recommended to the NPS 9/13/23. NPS agreed with UDC Determination 10/24. Closed.
2023-10	The Loosey Kit, LLC	Town of Highland, NY	Class II – Site Plan Review	Substantial Conformance recommended to the NPS 9/13/23. NPS agreed with UDC Determination 10/24. Closed.

New Business:

Camp FIMFO DEIS Scoping Document Comments by UDC and NPS, Next Steps: The letters NPS and UDC put together are included in the packets. Richardson hoped everyone got a chance to read them both and commented that they both mirror each other quite well. Ramie said there was a large effort to try to extend the comment period, which was unsuccessful. The planning board will review what they received and start working on it. The UDC was approached with an idea that a meeting could be arranged after the New Year. The newly elected officials on the Town of Highland Board and others were interested in participating in a meeting with the parties involved in the Camp FIMFO discussions to see if there is any avenue to approach the non-substantial conformance ruling by NPS. The UDC responded saying the process is underway with EIS and the offer has been made before when Kurnath asked the UDC to set up a meeting like this. The town rejected that, saying it wasn't transparent and didn't include the public. This is another proposal to bring everyone into one room to address concerns. Ramie said she would bring it up to see how the committee felt about, our role in the meeting or even participating in it at all at this stage.

Richardson said he has concerns about it. He doesn't want to get into a meeting where a discussion takes place on some of the issues that should be discussed within the committee. Richardson isn't sure that at this point, the UDC should be an active participant. Roeder said we have to see what happens with the Environmental Impact Statement. Richardson said it depends on whether the applicant wants to address some of the issues or not. Henry said the reason why the first meeting like this was rejected was because of the Delaware Riverkeeper. Ramie said the Riverkeeper would be invited to this proposed meeting and if they are involved you can't say the public can't be invited. Robinson said at this stage, this isn't something that concerns the UDC. Ramie said the theory is that the UDC is meant to be the body that brings parties to the table. G. Dudko agreed, if we're following our process, we've done our part and it's in the town's hands now. Robinson said if they withdrew their application and wanted to hold a meeting to discuss certain parameters of their original application and modifications, he could see the UDC participating, but not at this stage. The burden now is on the planning board to review information and make the decision. Richardson agreed, but also agreed with Ramie that it may be the easiest way to get all new town officials up to speed about FIMFO. Henry thinks the UDC should let the Town of Highland handle a meeting if they want to. Kurnath said the

intent of the meeting NPS proposed back in June was to pull the application back so it could be discussed. Even though the project is closed, we are assuming there will be another application submitted at some point. It isn't clear now if the town will ask the applicant to resubmit something. She thinks the UDC's role is important to get all the parties together, which ties back to why the UDC is so important and needs more funding. Robinson said a meeting like this is just bad timing. Richardson said the cleanest way to do it is for the applicant to withdraw the current application and resubmit, but they have invested so much money and submitting a new application would be starting over. He would be surprised if they take that route. There are a lot of people in the area that don't want FIMFO who won't accept it no matter what happens. Robinson commented that a lot of the locals are for FIMFO. Richardson asked what else could go in that area besides a campground that may be worse? Henry asked if zoning allows development? Robinson said yes, it can be totally developed. Henry said that's what people don't understand, what else could go in there. He asked if the comments Engelhardt put together had been submitted? Ramie said yes, the deadline was November 22nd. Ramie asked if there is a timeframe for completion of the EIS. Richardson doesn't think there is.

2021-2023 Summary of Project Reviews: Engelhardt said this is the overall spreadsheet of all the substantial conformance reviews during her tenure. She commented that the UDC receives about 10 or 11 a year. This was included for information proposes.

Final Project for GIS Course: A copy is included in the handout. Engelhardt wanted to show the committee what she has learned. The goal was to determine priority conservation areas in Pennsylvania. For this project she was given shape files and information, whereas if she was conducting this for real, she would have to find publicly available information about habitat, roads, ownership, etc. This is one common thing GIS is used for, called site selection. You either meet all the criteria or you can rank the criteria. At the end the map is done. The map on page 6 shows the final candidate sites in that county. She included this to give everyone an idea on what she's been learning. Richardson said maybe at another meeting she can demonstrate further what she's learned.

Other: None.

Old Business:

2022 Annual Code Enforcement Report Update: Engelhardt completed the Code Enforcement Report for 2022 after hearing from Tusten. There are similar patterns to the previous years. Lackawaxen had an increase of about 50% and Tusten had an increase of about 50% or so. Nothing is out of the ordinary. She doesn't see any patterns that would lead to concerns about how townships are operating within the RMP. Since it was finished later today, she will submit it to the NPS after she reviews it again tomorrow.

UDC-NPS Telecommunications Work Session: Ramie said the work session was on November 2nd. The first topic covered was Robinson's report on the availability of cellular to satellite service; the common cellphone can connect to a conventional land-based cell tower or an orbited satellite if a cell tower is unavailable. After going through what the technology allows, he concluded that there are some options but it is still an emerging field.

Kurnath was asked to investigate the location of existing cell towers. She pointed everyone to a publicly available GIS map that's linked to the NPS website under "Cellular and Internet access at National Parks through Telecommunications Sites and Cases." That has a legend of what type of tower it is. There was more discussion on how rights of way permits are handled. Kurnath had said the NPS doesn't own any of the radio towers used throughout the corridor but that it is allowable to co-locate cellular and radio equipment on the same tower. The only limit is the weight and the space available on those towers. The Upper Delaware towers are rather full at the moment. She is still looking into whether she can find a communications expert within the DOI who can address the subcommittee. Henry said there has been a movement to install cell towers in National Parks to enhance public safety. There is clearly no policy against it but they are looking for the best technology to be the least intrusive. The decision made in 2013 to disallow cell towers in

Damascus Township needs to be revisited. The UDC at that time determined them as incompatible use. The question is: would we react differently today if the same proposal came up based on our motivation for enhancing public safety. They would like to run it through the review process again, with the changes in technology. They are looking into redrafting the position paper. Engelhardt had offered to put together a draft for the next work session on December 7th at 6pm. Then they have to figure out how to implement the position paper into the Land and Water Use Guidelines. Henry said in the 2014 Foundation Document it proposed doing an Addendum to the plan. The Sullivan County Broadband Initiative will be our presentation on December 7th.

Richardson said he's not sure what's changed within the corridor, but there had been places within the corridor he hasn't gotten cell service in the past that is getting better signal now. He isn't sure if it's additional equipment on existing towers since he hasn't seen any new towers going up. Henry contacted one of Robinson's contacts and said they are improving off of the 5G network. If the phone has the capability, it's been improving. Robinson said there is a site that will show you where the signals are strong.

Other: None.

Public Comment: None.

Adjournment: A Motion moved by Roeder, seconded by Bernitt to adjourn at 9:15 p.m. carried.

Minutes prepared by Stephanie Driscoll, 12/06/2023