



# Upper Delaware Council

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## UPPER DELAWARE COUNCIL MEETING MINUTES December 2, 2021

The Upper Delaware Council held its monthly meeting on Thursday, December 2, 2021. Chairperson Dexter called the meeting to order at 7:03 p.m. and roll call followed.

In attendance: Town of Hancock- Fred Peckham (Zoom), Town of Fremont- Jim Greier (Zoom), Town of Tusten- Susan Sullivan, Town of Highland- Andy Boyar (Zoom), Town of Lumberland- Nadia Rajsz (Zoom), Town of Deerpark- David Dean (Zoom), Damascus Township- Jeff Dexter, Berlin Township- Alan Henry, Lackawaxen Township- Doug Case, Shohola Township- Aaron Robinson, State of New York- Bill Rudge (Zoom), Delaware River Basin Commission- Kristen Bowman Kavanagh (Zoom), National Park Service- Superintendent- Joe Salvatore. Staff in attendance: Executive Director- Laurie Ramie, Resources and Land Use Specialist- Kerry Engelhardt, Secretary- Ashley Hall-Bagdonas. Absent: Town of Cochecton- Larry Richardson, Town of Delaware- Vacant, Westfall Township- Michael Barth, Commonwealth of Pennsylvania- Tim Dugan. Guests: Daryl Pierce- PA Fish & Boat Commission, Michael Crane AICP, Cody Hendrix- NPS Community & Land Use Planner, Don Hamilton- NPS Natural Resources Chief (Zoom), Evan Padua (Zoom)-Town of Tusten Alternate, Ginny Dudko- Town of Deerpark Alternate (Zoom), Jane Varcoe, Alice French, Stephen Brokenshire. Media: Liam Mayo- River Reporter, Peter Becker- Tri-County Independent (Zoom).

**Virtual Presentation: “Northern Snakehead Invasive Fish Threat” by Daryl Pierce, Fisheries Biologist at the PA Fish & Boat Commission:** Pierce said there are four snakehead species within the United States: the Northern Snakehead; Bullseye Snakehead; Giant Snakehead and Blotched Snakehead. This presentation will focus on the Northern Snakehead which is the only species in the Delaware River. The others are in the other 48 of the lower continental U.S. Snakeheads are native to portions of China, Korea, and Russia. They are thought to have been introduced in the U.S. via the live fish market. The Lacey Act in 2002 banned importation and cross-border transport. They’re still being distributed within the U.S. and certainly within the mid-Atlantic through, for instance, illicit intentional releases. Someone intentionally puts them in the water because they desire snakeheads in that area. It is mostly by incidental releases that were not intended for instance, dumping of a bait bucket where they didn’t know they had the fish in there or transporting aquatic hitchhikers. It’s thought that they came into the Delaware Basin through the Chesapeake/Potomac drainages. They may not be sold, bartered, possessed, or transported within the Commonwealth, and they’re managed as an invasive species under § 71.6 and 73.1. Pierce said he’s pretty sure that New York, New Jersey, and Delaware have similar regulations.

When Snakeheads first became prevalent in the lower Delaware Basin, people were trying to figure out the best way to identify them. Key characteristics are the soft and non-spine dorsal fin or the anal fin. They remain separate from the caudal fin. They have a slightly compressed head which is very distinctive, with the eyes a little more towards the top of the head. Males tend to be a little bit darker than females. Identification was always an issue. People would confuse them with the native species of Bowfin. The difference is the long dorsal fins that don’t have hard spines. On snakeheads, it’s a long anal fin. On a bowfin, it’s more of a short-rounded fin. The pelvic fin is right next to the gill plates, whereas on Bowfins, it’s much farther back, well away from the gills. Again, the compression of the head is very typical of snakeheads but not Bowfins. When Snakeheads were first introduced in the Delaware drainage, and people were becoming aware, they were also confusing them with the American eel. American eels are a tube fish, very long, cylindrical, but their dorsal and anal fins are one continuous fin across the caudal. Pierce said adults get to a very large size of >30-inches. On average, they live for 5-6 years. Within the mid-Atlantic, they’ve had observations of a maximum age around 8 years. They achieve maturity in 2-3 years, however, potentially it’s in one-year in invasive populations (such as the lower Delaware River). Reproduction occurs in late

April through August. It's been seen up to five spawning events per season for an individual fish may occur. Snakeheads will break up the weeds and create a depression and the eggs are in a mass. They're not adhered to anything. They're just staying in that nest which the adult will then start to guard, located in shallow warm waters. Snakeheads are predatory fish, feeding together in their schools. They are generally active at the dusk/dawn hours and prefer low light conditions. Juveniles will feed on insects, small crustaceans, amphibians, and other fish larvae. Once they get some size and age, they get upwards of four to six inches. Then they are predominately piscivorous on minnows/forage, panfishes, and other gamefishes. A notable characteristic of snakeheads is their ability to breathe air and survive up to four days on land as long as their gills stay moist. This is what helps them be prolific in moving around into other water bodies. Juveniles have also been shown to wiggle to other water bodies. Northern Snakeheads are found in a wide range of freshwater habitats from lakes, creeks, rivers, swamps but what they really prefer is slow-moving/stagnant water with mud bottoms and plenty of aquatic vegetation. They tend to stay in shallow water less than 8-feet. Snakeheads are thermally tolerant; they're found in 32-86°F. They can be cold-tolerant coming from Central Asia; they have the same temperatures in the U.S. They can survive under the ice and make it through the winter. In the summertime, they're looking for warmer, stagnant waters. Being able to air breathe they can tolerate low oxygen waters, which also helps them generalize to other habitats. Pierce provided a distribution map in his PowerPoint showing Pennsylvania, Maryland, Delaware, and New Jersey. They were found in the mid-Atlantic area of Maryland in 2002. They have been documented to swim considerable distances 15-20 miles in a day. It is thought that they immigrated up through the Chesapeake system through the C&D Canal. They started finding them initially in FDR Park and they are prolific through Darby Creek, which is exemplary for the shallow aquatic warm water that they're looking to find. They're within the continental U.S. but within PA particularly the estuary waters of the lower river they become well established. The distribution map was made in January 2021. Unfortunately, now they can add Pike and Wayne Counties for the Delaware River. Pierce is unaware of any occurrences of Snakeheads within tributary waters or lakes within these counties. It's only within the mainstem waters. From the well-established populations, they are starting to range expand and move up through the basin into other waters.

Pierce said the reason why folks are nervous about Northern Snakehead is because they are predatory generalists. They focus on fish which poses an unknown risk for threatened and endangered species. Bridle Shiners are threatened state fish. They stay within aquatic vegetations. If Northern Snakeheads are going to stay in the vegetation beds, he's concerned they are going to start focusing on eating the Bridle Shiner. Several years ago, the Philadelphia Water Department had been catching Snakeheads in the Schuylkill River and cutting their bellies and finding them full of eels. Since they are such a strong predator, the concern is that they can deplete prey populations. The other concern is there's considerable dietary overlap for other fish-eating game fishes, for instance, walleyes or bass. That means that food may become limited or have increased competition. Feeding habits and habitat are going to change and possibly the behavior of the other species as they're trying to compete for limited resources. It is also unknown to the extent which Northern Snakeheads may transmit or propagate disease through the system as well. In terms of monitoring, the Fish and Boat Commission has developed a Draft Snakehead Species Control Plan. It will come out eventually for public consumption. They are asking to use angler reports to help characterize distribution and occurrence of Snakeheads within the Delaware Basin and across the Commonwealth. They also maintain annual monitoring at fixed sites for other game fishes, for example, bass, American shad, walleye. As populations change dramatically and acutely, they can hopefully compare those to angler reports to see if it's predation from Northern Snakehead. Pierce showed examples of Snakehead posters and asked if you encounter them not only report it but to please harvest them. Throwing them on the bank is not enough. Because they are airbreathers, there's a chance they can get back into the water. Harvest them by cutting them or putting them in bags, put them on ice or in the freezer, and then dispose of them in the garbage. The posters usually ask for information like when the anglers caught it, what waters was it from, a general idea of the location or GPS location and several pictures so they can look at the fish. Pierce said prevention is the best management. Ensure all gear, including boat live-well and trailer are clean by removing visible mud, plants, and fish and the vegetation prior to moving on to another water. Small juveniles because they are air breathers can get into the algae and get on to the trailer and if you go to another water that's how they're hitchhiking. Dispose of aquarium fishes and plants in the garbage as well.

Case said he owns an eel weir on the Delaware River and he caught a Northern Snakehead on 9/22. Case called Hamilton to retrieve the frozen Snakehead. Hamilton said they turned that Snakehead over to NYSDEC and they tried to do stomach content analysis but there was nothing identifiable. Pierce confirmed that the Northern Snakehead is edible. Boyar asked how many have been caught in the last 12-months? Hamilton said in terms of the Upper Delaware River, since 7/31/2020 there have been four he knows of. NYSDEC caught one electrofishing last

September in the back-channel area south of Callicoon. One was caught on 7/31 by an angler, two were caught in eel weirs this last fall, one in the lower east branch and one in Doug Case's eel weir south of Narrowsburg. They did get another report of an angler catching one at the NY DEC Narrowsburg Access towards the end of August. They didn't hear about that one until a few weeks later and don't know what became of the fish. DEC also did eDNA sampling throughout the area. They electro-fished which was suitable habitat for them.

Boyar asked if the Snakeheads are getting caught in eel weirs because they are migrating? Pierce said Snakeheads do not migrate in terms of spawning migrations. They are just moving around the system and finding if where they're at is better or worse. For instance, the well-established population in the lower Delaware River is moving up, limiting competition in the lower Delaware, and now they've made their way up into the Upper region and are searching around for habitat so the catch in the eel weirs is probably when they are swimming across the river which is shallow and they just happen to get swept up in the weir. Boyar asked if they will go to the tailwaters of Pepacton, Cannonsville and Neversink or is that water too cool in the summertime? Pierce said it's possible for them to go up that far but they are looking for shallow, warmer water in the summer in the aquatic beds. Generally, the tailwaters to the reservoirs are cold, fast-flowing waters. The committee thanked Pierce for his presentation.

**UDC Fiscal Plan Presentation by Michael Crane AICP:** Crane said he took this job because UDC needs a sustainable business plan. When he wrote the proposal, there was a lot that he didn't know about; the roots and history of the UDC, which ended up going to the heart of the issue. He started the research under the assumption that UDC tried everything. As the low-hanging fruit, UDC certainly kept asking the States for funding, with some success. Crane asked himself, "What exactly is the problem? Why is there such an intractable problem, persistent for over 30 years? Why are they hiring consultants?" He said if the problem is so persistent, then it must be foundational. It must be part of its origins, part of its organizational DNA. He knows this because he started writing a Problem Statement, and it went on 19-pages and took him down many different tangents. He said the problem isn't the lack money. The symptoms are a depleting budget, but that's not the problem. Crane said he was going to uncover foundational problems as he sees them. He's going to discuss the UDC's theoretical intent or purposes vs. its reality and its actual functions. What UDC is supposed to do and what it actually does are inconsistent, and this is the fundamental reason that UDC doesn't have a sustainable business model. Because the problem is foundational, then so must be the fix. Crane said UDC may be not prepared to make these changes because the UDC board and staff value the status quo more than the proposed change. Crane said to fix the problem the status quo must change and those who are most resistant to changing the status quo anywhere are those who created it. He said this was one of the most difficult assignments that he ever had and he feels it's because the problem is so embedded in the origins of the UDC. He already foresees the headline for the press: "Consultant Gives UDC Earful, Barely Makes It Out Alive."

Crane shared his background. He's an environmental economist who has studied the economics and socio-economics of rivers since 1992. He's been a consultant in river management and protected area management for 20 years. He worked for the Department of Interior (Bureau of Land Management) as a River Ranger. He was on the national Board of Directors of the River Management Society. He has been exposed to a lot of different river management problems. He has also been the Executive Director of a government regional planning agency and managed a staff of 10 and a \$3 million budget. His advice comes from these experiences. Crane said, "Quite possibly another consultant could come up with a different result and resolution. But this is the best I have." Crane said before you beat him up too much, remember that this was a "no visit contract". He came for a site visit at his own expense, not just for one night but he stayed five nights. Now he is back again on his own expense. This is a unique feature of Crane Associates.

The Upper Delaware was number 19 of the 50 original river segments designated in the Wild and Scenic Rivers Act. That Act was amended by Section 704 of the National Parks and Recreation Act of 1978 and dictated how the Upper Delaware was to be managed and by whom, and required a River Management Plan (RMP). The RMP calls for the establishment of the Upper Delaware Council (UDC). He said the origins of the Plan and the UDC are fundamental to the unsustainable business plan you have today. NPS tried to pass two versions of the RMP with no success. The public outright rejected it. The Conference of Upper Delaware Townships (COUP) was formed, and it worked with the NPS to write a new version passed by Congress in January 1986 and since became effective.

Crane takes careful note that the local governments and public were effective enough to reject two previous plans when they had no real (written) authority to do so, just political muster. This is the one asset that he believes UDC still has and what we will need to build a new sustainable business model. In the RMP, the UDC's stated intent is:

“To retain local control, alleviate the threat of eminent domain, and excessive land acquisition, and protect the river through cooperative efforts of local individuals, governments, and state and federal agencies.” That is why the UDC exists, but the theory and reality are not the same. The RMP states on page 19: UDC was established to “ensure effective implementation of the Plan and oversee its administration, maintain an active presence in the river valley, be the driving force behind the Plan and the primary entity through which local, state, federal agencies resolve their differences.” In theory, UDC should have effective implementation. In reality, it makes recommendations. In theory, it should oversee its administration. In reality, important information is withheld. In theory, UDC should maintain an active presence. In reality, there is no on-river staff. In theory, UDC should be a driving force. In reality it advises and recommends. In theory, UDC should be the primary entity for resolving differences. In reality the membership is voluntary. UDC has no enforcement capability. The UDC has no authority over anything. If the UDC was established to retain local control and alleviate the threat of eminent domain but that it is not possible due to existing laws, you can’t do what you were created to do. The UDC’s voluntary membership ends up creating redundancy. The UDC was established, at the request of local governments, to advise and recommend to the Secretary the degree to which local governments are implementing the intent of Section 704. While local governments rejected the first two drafts of the RMP for being over-regulatory, they nonetheless agreed to create an entity made up primarily of local government representatives to act as a professional contractor to the Secretary, paid by the Secretary, and to advise the Secretary on the degree to which local governments are substantially conforming to the Act and its Special Provisions. Crane said the UDC doesn’t protect local governments; it informs them. The UDC can’t even do that with any authority because the NPS must also do the same work in non-member towns. UDC has 57 responsibilities in every element of the RMP, plus 23 more from the Citizens Advisory Committee (CAC) for a total of 80. Crane asked how does the UDC spend its time? With 80 responsibilities in every element of the RMP, UDC spends one-third of its budget on administration. Crane said this is completely unsustainable. In the beginning, there were five staff, plus hired consultants. In 1996 UDC stopped hiring consultants and lived on four full-time employees. Now UDC has three.

The PV of 1990 \$300,000 in 2020 is 218,000. Crane used the 30-year US Treasury yields as the deflator. In other words, if UDC’s budget increased with average rate of inflation, it would receive \$382,000 this year. \$82,000 is about the cost of one mid-level staff person with benefits. At this rate UDC will lose one more staff in 7-8 years. The NPS isn’t doing much better. They lost 4% over the last 10 years from inflation. Crane said for the UDC to request additional funds from the NPS, under the existing policy structure of the RMP, is like digging a deeper well into a depleting aquifer. Both entities need a more sustainable funding source. The UDC and NPS are partners in managing the Upper Delaware River, each with unique and mutually supportive roles. In theory, for the longest time Crane didn’t understand why the two organizations were such adversaries when they both can form assets that would strengthen both organizations. They could form a government – non-profit partnership unlike any other in the country and use that to their advantage. But they don’t, and the reason is that they are both threats to each other. That’s the only logical explanation left. Crane said assuming both organizations are led by rational individuals, one must believe that these rational actors are acting in their best interest and it is a threatening environment from which they both operate. Therefore, there is no cooperation, and that needs to change. When creating a sustainable business model, you start with creating a Value Proposition. Reviewing a value offer by the UDC to its beneficiaries, Crane provided a slide showing Beneficiaries (NPS; State Governments of PA and NY; and local governments) and listed the benefits received by each. Not only do the local governments pay nothing but they impose administrative costs in staff time at committee meetings including the Water Use/Resource Management Committee, Operations Committee, and Project Review Committee. The administrative time to perform these functions and staff these committees is about 50% of total administrative time or about \$56,000 per year. UDC just finalized a Mission Statement and a lot of time was dedicated to it: “To conserve, enhance, and promote the Delaware River corridor’s natural and cultural resources and social and economic vitality by fostering cooperation and among public and private partners to implement the River Management Plan.”

Next Crane tried to find a comparable business model, or at least a general framework of one in the non-profit or government sectors. Crane asked is the UDC a non-profit organization? It was incorporated as one but does that make it operate like one? A typical non-Profit spends 15-30% on active fundraising. UDC spends 0.1%. A typical non-Profit has <10% spent on Administration and UDC spends 44% on Administration. Typical non-profits provide very specific deliverables i.e: purchases of land or development rights; legal battles; environmental education; access to hunting/fishing. Crane said UDC has no specific deliverables.

However, UDC doesn’t function like that. In a lot of ways, the UDC acts like an interstate commission. If the UDC was more like an interstate commission, it would likely regulatory authority, mandatory membership with

membership dues, as well as other revenue generating mechanisms. The building blocks of a sustainable business model are composed of the following: Purpose: The organization's purpose is often spelled out in a mission statement. It states why it exists. The purpose provides organizational stability by serving as the guiding light of the organization through the year's challenges and opportunities. The mission statement is what the organization falls back on when it gets lost. Beneficiaries: The people who believe in the organization's value and who benefit from its functions. They receive the organization's output (services or products), and in-turn they support the organization through purchases, donations, fees or taxes. Legal Standing: Legal standing is the authority and rights the entity has been given through civil laws and organizational by-laws. Legal standing is based in societal norms and allows the organization to perform its functions and its beneficiaries to support the organization. Functions: The functions of the organization are the actions it takes on a daily, monthly, and annual basis to ensure its beneficiaries are receiving expected benefits and its purpose or mission is being fulfilled. Functions serve a practical need. An organization with a sustainable business model is one where its purposes and functions are aligned, serving its beneficiaries with some level of authority, be it legal, social leadership, political or moral authority. The UDC's current business model is not structured like this. The core problem with UDC's current business model is that its purposes and its function are not aligned; they are actually working against each other. Crane provided a slide summarizing the core problem with UDC's current business model. It is the best answer he could come up with for explaining why UDC is unable to generate revenues from either national or state government sources, local municipalities or private donations into our non-profit.

He asked if the UDC was a government agency? UDC's purpose as written in the RMP is "to retain local control, alleviate the threat of eminent domain, and excessive land acquisition, and protect the river through cooperative efforts of local individuals, governments, and state and federal agencies." If Crane was to ask an independent bystander to read the RMP and responsibilities for the UDC and ask them to create a Mission Statement, it may sound something like this: "To promote and protect local governments and private landowners' interests in the implementation of the River Management Plan for the Upper Delaware Scenic and Recreational River." UDC was established by Congress but it has no authority of any kind. Government agencies usually operate on funding from taxes but UDC doesn't. Typically, government agencies in natural resources regulate and monitor development and UDC does that. Government agencies report to higher agencies or legislative bodies and UDC reports to Department of Interior, PA and NY, and membership. Or is the UDC an interstate commission which is typical of an entity that coordinates more than one state? Typical interstate commissions are created by Congress as UDC was. Agreements are written by the members and for the members but the UDC doesn't have an agreement between these states. A typical interstate commission have agreements which grant powers, authority, and governance to itself but UDC doesn't have that. Its membership is usually mandatory and UDC's is not. The funding usually comes from its members however, UDC's funding does not (except one). Crane provided several examples of interstate commissions in the PowerPoint.

Crane asked the group to consider if the UDC was established to serve the NPS, then it becomes an operational arm of the UPDE staff. In this case it would provide a valuable service to the UPDE and the NPS could eliminate redundancy and save money for both entities. He said in reality, the UDC provides a redundant service because the NPS must hire staff to monitor and report on substantial conformance with the RMP anyway. In fact, the plan specifically prohibits the Secretary from delegating this review to any other entity. The NPS has no incentive (or maybe a very weak one associated with local politics and public relations) to work cooperatively with the UDC or provide them with any funding. The UDC wasn't established to serve the NPS, it was established with the intention to serve as a check against federal overreach. The origins of the UDC rose out of the remnants of two previously rejected river management plans and came into being as an entity to placate the threats of government takings. It was established to serve local governments. Today the UDC's functions serve the NPS but its purposes are a threat to NPS. That is called Operational Dissonance. With respect to local governments and private landowners, the UDC's purposes serve them well, but its functions do not. Its functions are a threat to local governments. The UDC reviews local policies and development actions and reports them to the Secretary. How could this be perceived as in the best interest of local governments and private landowners? Therefore, local governments would have little incentive to provide funding to the UDC. That is Operational Dissonance. The strongest resistance to removing this operational dissonance comes from the UDC itself. The strongest resistance from changing the status quo will always come from those who created it. The Council is established to review, recommend, advise and coordinate. There is no requirement in the RMP for any of the UDC's recommendations or advice to be followed, resulting in a weak governance structure. This weak governance structure, combined with its major functions as a development review board, voluntary membership, and high administrative costs all merge to create a perfect storm that prevents

the organization from raising its own funds and providing a valuable service. In order to change this, the RMP must be rewritten. UDC must pick a business model and change the plan accordingly. These are generally mutually exclusive and UDC must pick one.

A Government Agency Model would help eliminate Operational Dissonance by building non-threatening; non-competitive working relations with UDC's most important partner, the NPS. The intent with this model is to eliminate the threat UDC poses to them. UDC will rewrite the "UDC Purpose" on page 19 and state clearly that "The UDC is a non-profit entity established to serve as an operational arm of the NPS for purposes of: grant writing and fundraising; building and strengthening relationships with local governments, private landowners and the community as a whole; providing technical assistance to municipalities in meeting the requirements of the river management legislation; maintaining an active presence on the river; and performing any or all of the responsibilities assigned to it by the NPS in the RMP." Under this model the Five-Year Operating Plan is written and approved by the UPDE Superintendent. UDC contract serves as the will of the NPS and is more flexible for NPS. NPS basically retains the \$300,000 and spends it on UDC-related work. UDC uses its non-profit status to write grants and raise funds for the UPDE (similar to a "Friend of" group). UDC uses its technical planning skills to assist local governments. UDC eliminates most of its administration's tasks. NPS will have an incentive to cooperate. UDC Board of Directors remains and monitors UDC work.

The Interstate Compact Model would help eliminate Operational Dissonance by creating operational authority. We remodel the UDC to look more like a typical interstate commission. Crane said if you want to retain local control, this is how you do it. If locals were able to muster enough political strength to reject two past River Management Plans with no authority to do so then they could rally again to rewrite the RMP and regain real local control. An Interstate Commission replaces the DOI. All municipalities are voting members of the Interstate Commission. This increases local governments' power and decreases locally "perceived" NPS threat. An Interstate Commission imposes, enforces, and collect fees and fines, including commercial recreation, and concessions. It increases UDC's "active presence on the river". It increases and improves water quality monitoring, and other environmental data gathering. DRBC and UDC share one staff person for first few years then build up from there to help meet DRBC's commitment in RMP (page 22). This would require Congressional approval.

The third, Non-Profit Organization Model, would help eliminate Operational Dissonance through independence. There would be an expanded Independent Board of Directors including advocates for river protection and local economies. A contract with NPS is "at will" for mutually beneficial activities. UDC creates its own work program that does what UDC wants. UDC eliminates some administrative burdens. Grants and fundraising activities are needed for all non-NPS work elements. RMP is rewritten to institute these changes. This requires a lot of fund-raising skills.

Any one of these will take time, energy and resources. Crane said he will explain each one and will give some nuts-and-bolts recommendations that UDC can work on immediately to eliminate operational dissonance by building a non-threatening and non-competitive working relationship with your most important partner, the NPS. The intent with this model is to eliminate the threat UDC poses to them. Eliminate operational dissonance by creating operational authority. Remodel the UDC to look more like a typical Interstate Commission. If UDC wants to retain local control this is how you do it. If locals were able to muster enough political strength to reject two past river management plans with no authority to do so, then UDC could rally again to rewrite the RMP and regain real local control. Crane recommended choosing one of these three models.

Crane said the recreational fees at the Upper Delaware Scenic and Recreational River are not being charged adequately or correctly. Minimal impact is hardly what occurs at Skinners Falls. He said he won't get into the environmental impact that these activities are having and it's hard to believe that some of these boat liveries are making less than 25K in gross revenue. The RMP clearly sought the active involvement of the UDC in river management but in reality, they do very little of their prescribed functions. 123,504 visitors come from voluntary reporting by the liveries. According to "Charging Fees for CUAs" November 2015 from CFO to Regional Directors, "appropriations are to be used, at a minimum, to recover associated management and administrative costs". Crane proposes creating a new Recreational Fee structure, applicable to PR 105-391 Section 418. The RMP sought the active involvement of the UDC in river management to ensure the effective implementation of the plan and oversee its administration on a continuing basis (p.19); Coordinate the implementation of the Land and Water Use

Guidelines (p. 92); Provide advice to the NPS on “licensing program of commercial liveries (p. 107); develop river management policies, (p. 110); be the principal forum for managing recreation use on the river, serve as the main coordinating agency for carrying out the water use management program (p. 110); develop and implement a river use education and awareness program (p. 110); oversee all recreation development and provide reviews of development plans (p. 110).” Increased fees would be shared between NPS and UDC for river recreation management and administration. Crane provided slide 27 and asked if current CUA’s on this portion of the river are being issued correctly? He said this should be a recommendation from the UDC to the NPS. There will be extreme resistance. The resistance is political, not legal. If you hear that it can’t be done because of the law or policy then it’s a red herring. There is a lot of money being left on the table and the commercial operators are getting away with proverbial highway robbery.

Crane said UDC must reallocate staff time toward fundraising and provided slide 28 showing three pie charts moving from today to 2022 to a target in 2023. He said all agencies are challenged for funding but most address these problems with fundraising. We should repurpose Ramie’s excellent writing skills from newsletters to grants. Slide 30 showed the time allocated on writing minutes. Crane said in the 21<sup>st</sup> century these meetings can easily be audio recorded for free and the file can be placed on the UDC web site for public review. These recordings will be more accurate and faster than written minutes, the public can review the entire meeting from the website the next day (not a subjective review of it), and the process can save 6 weeks of staff time which can be reallocated to writing grants. Crane said you know an organization is upside down when there are more subcommittees than staff. He said he knows the UDC’s committees are an institutional tradition. Even the Five-Year Operating Work Plan is organized according to its standing committees. The Five-Year Plan states “Committee structure is critical to the successful operation of the Upper Delaware Council.” Crane said the consultant respectfully disagrees with this assessment. If the committee went away the UDC would not fail, in fact it would have more time and time is money. It is unusual to see a Five-Year Work Plan built around subcommittee of an organization. This strong tradition of committees made up of local government representatives may provide local governments with some level of comfort, but it is a tradition born out of a fear from the way the river was designated, and how the first two plans were written. These committees are expensive and unnecessary luxury that the UDC cannot afford right now. If local governments are not willing to pay membership fees to keep these committees staffed, then the committees are not providing enough value back to its beneficiaries for them to exist. Crane said the organization should look like this: all UDC Council members receive the same information at the same; there is no “pre-committee filter” made up of selected members; the Council empowers and entrusts the Executive Director with all administrative judgements to operate the Council. You need to create new procedures on how the agenda is created, how the meetings are structured. Crane said whatever you agree on the end result is that there are no more subcommittees at least for the next five years while you right this upside-down ship. Slide 32 showed how to eliminate subcommittees to increase efficiency and transparency. All members of UDC are informed equally and it frees staff time for fundraising and being more effective in the field.

Another nuts-and-bolts measure that you can start today is going toward a paperless office. Slide 33 provided ways to move towards that. A few suggestions were all meeting agendas, meeting packets, and minutes now be in PDF format only. Members will use tablets, laptops or other devices to access these records and follow along during meetings. The newsletter is no longer printed and mailed but sent electronically and posted on the web site. Crane said he would be remiss if he didn’t recommend that an organization committed to protecting the environment move toward a paperless office. When corporate America is doing it to save money, why isn’t UDC? This isn’t some “feel-good” activity meant to save the world. It is a very real and tangible way to save money and find more staff time. Some of the largest corporations in the USA who don’t have a reputation of helping the environment are doing it and it is to increase their bottom line. The “Time=Money” perspective is not usually understood by government agencies but it is understood by consultants. Crane suggest rewriting the Five-Year Operation Plan so each task has an identifiable funding source and each task has a responsible staff assigned to it with a specified limited, allocation of time. Time sheets are no longer an “open checkbook” that simply record where time was spent. The sum of all task hours must equal the total number of staff hours in the year (1,440/FTE). The Executive Director accounts staff time as an “expense”. This approach will force a prioritization of time and will require several years of adjustments. Crane created a draft Excel model that can be used to reallocate staff time. That will be sent out to members for review.

In conclusion, UDC’s purposes and functions are misaligned. “Operational Dissonance” prevents a value proposition for beneficiaries and inhibits revenue generating opportunities. There is no comparative model for UDC. UDC’s current governance structure has limited remaining life (7-10 years). The UDC must restructure its

governance. UDC must devote one-third of total staff time to fundraising (grant writing) and the RMP must be rewritten. Crane recommended a new operational model representative of UDC's true purposes to align UDC's functions with its purposes by rewriting the RMP and enabling legislation. UDC should insist on a new "market based" Recreational Fee Structure. UDC should reallocate staff time to 15% Administration and 35% Fundraising, 6% Public Relations, 10% Technical Assistance. UDC must decide which business model is right and create a 2-year transition plan. It will require an extensive series of meetings and a new RMP. UDC would have to complete the process of reorganizing the Five-Year Plan into a Time/Task/Funding Budget. UDC must continue to research appropriate funding opportunities and add to Appendix 2 supplied in Crane's report. Crane said there is no cure that is pleasant. There is no way out of a financial challenge without some amount of austerity. There was a brief question and answer session. The committee agreed to review the PowerPoint and discuss this among members at a later date.

**Approval of November 4<sup>th</sup> Meeting Minutes:** A motion by Henry seconded by Robinson, to approve the November 4<sup>th</sup>, 2021 meeting minutes carried.

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

**Committee Reports:** There were no questions regarding the following meetings: Nov. 16<sup>th</sup> Water Use/Resource Management, Nov. 23<sup>rd</sup> Project Review, and Nov. 23<sup>rd</sup> Operations.

### **Status Reports**

**Delaware River Basin Commission:** Bowman Kavanagh said that was a fascinating report by Crane. Next week DRBC has their 4<sup>th</sup> Quarter Business Meeting on 12/8. DRBC has pending rules on import/export of HVHF waters, and there will be two Special Hearings on 12/8 and two on 12/15. You may find information to submit verbal comments on the DRBC website. They have a Regulated Flow Advisory Committee Meeting on 12/15. There is a Monitoring Advisory and Coordination Committee on 12/16. Their presentation to the UDC on Microplastics has been rescheduled to 1/7. DRBC also wants to extend an offer for a presentation on a Habitat Model they have been working on initially developed by the USGS for the Upper Delaware Region. It doesn't apply to every section of the river but does to multiple segments on the West Branch, the Main Stem, the East Branch, and a portion of the Neversink and downstream. It attempts to look at different flow scenarios and how those affect in-stream habitat. It considers river flows, habitat, suitability criteria, and water temperature. She wished members Happy Holidays and a Happy New Year.

**NYS Dept. of Environmental Conservation:** Rudge provided a 12/1 press release, "Governor Hochul Announces 'Take Your Shot for An Outdoor Adventure' Covid-19 Vaccine" which was forwarded to members. Henry thanked Rudge and DEC for cleaning up the Narrowsburg DEC Access after storm damage on 10/26, saying they did a fine job.

**PA Department of Conservation & Natural Resources:** Absent. Dugan did provide follow-up information about trout regulations in the Delaware. Traditionally NYSDEC closed their trout waters over the winter season, including their portion of the shared jurisdictional waters of the West Branch Delaware River and Delaware River. Their intent was to avoid having anglers inadvertently walking through trout redds in the stream. The recent NYSDEC changeover to the C&R-ALO, moves towards standardizing regulation with PA Fish and Boat Commission. PFBC has a Miscellaneous regulation specifically for the shared waters of the West Branch Delaware River in Wayne County, providing C&R-ALO angling opportunity (Page 16 of the 2019 Summary Book). Within Delaware River, PFBC provides an extended season (Labor Day through opening day the following year) as per the Commonwealth Inland Regulations, but trout in the Delaware River are considered wild, thus, trout fishing the Delaware River is catch and release, all tackle. Dugan's email said, "The simple answer is yes, catch and release with artificial lures only (C&R-ALO) is permitted in the joint jurisdiction PA waters sections. It appears that it has been that way for a while on the PA side."

**National Park Service-Upper Delaware:** Superintendent Salvatore said unless something has changed in the last three hours NPS is still under the Continuing Resolution which expires tomorrow at midnight unless they pass a new Continuing Resolution. If they don't that means NPS pretty much shuts down except for critical staff like

maintenance and law enforcement. It could hold up funding. It also affects the funding for land acquisition, such as Ten Mile River. That won't be considered until an actual appropriation has been passed.

**UDC Executive Director's Report:** Ramie said we have one Board Vacancy. Our Town of Delaware Representative Tom Dent resigned on 11/10, after serving in that role since June 2020. The Town Board will address this appointment at their January reorganizational meeting. We welcome Kerry Engelhardt to her first official UDC meeting since she started the Resources and Land Use Specialist position on 11/22.

The National Weather Service was very appreciative of the UDC coordinating a review of the proposed flood categories for the USGS Delaware River gage at Lordville that we had provided on 11/9. Hydrologist/Meteorologist Jim Brewster agreed to incorporate the changes we suggested and provided an extremely detailed explanation of how the annual flood return frequencies are derived in return. We have not heard back as yet from the Federal Railroad Administration to our safety issue and railroad ties inquiries, but Ramie did receive an email from Congressman Cartwright's aide April Niver. She said on 11/19 that she had forwarded it to their liaison with the US Department of Transportation and asked them to help get us a response. Niver asked Ramie to let her know when we hear back.

A few highlights of our December calendar: There will be construction activity in the parking lot here starting early tomorrow for the replacement of fuel tanks that we will hear about under Old Business. We expect delivery of our latest newsletter on Monday. All three UDC committees will meet on the 2<sup>nd</sup> Tuesday, 12/14, for abbreviated sessions as is our tradition. We're working on close-out deadlines for the PA DCED grant and Fiscal Year 2021 reports to the Park Service. Hall-Bagdonas has also prepared the 2022 meeting schedule as a handout, accompanied by the list of next year's federal holidays provided by Chris Hollenbeck at NPS.

Ramie asked all to please take a look at our updated December calendar.

#### **New Business**

**Nominating Committee Report:** The Nominating Committee (Robinson, Greier, and Henry) will propose a slate of 2022 UDC officers at the 12/14 Operations Committee meeting to stand for election by ballot at the 1/6 UDC meeting.

#### **Draft Letter to DRBC: Proposed Rulemaking for Amendments to Special Regulations, Part 440**

**High Volume: Hydraulic Fracturing:** Dexter said Damascus Township is in a lawsuit against the DRBC for several issues. They raised a few questions. Transfer One isn't happening and as far as they know there's no one in this area who can process weight, so it's a moot point. Dexter asked why do they need this Rule? Dexter also asked what are the "other measures" mentioned? Dexter said the issue of water transfer from Delaware to the Susquehanna is not an issue. There's no place along the Delaware in this area that can handle processing the leftovers. He said they are also recycling stuff on site so there's not that much. The Draft Letter to DRBC was deferred to the 1/6 UDC meeting agenda for additional consideration of UDC comments.

**Draft Letter of Support for Alliance for the Upper Delaware River Watershed:** A Motion by Henry seconded by Sullivan to approve the draft letter of support to NYS Governor Hochul seeking a \$1 million Protection Fund to protect and restore the Upper Delaware River Watershed carried.

**Draft Letter to NPS RE: Definition of Substantial Conformance:** A Motion by Robinson seconded by Sullivan to approve the draft letter to NPS carried. The UDC concurred with an analysis commissioned by an original author of the RMP and Land and Water Use Guidelines, Tom Shepstone.

**Substantial Conformance Recommendation to NPS for Cochection Cottages:** A Motion by Robinson seconded by Henry to forward the Substantial Conformance Recommendation for Cochection Cottages by Engelhardt to NPS Superintendent Salvatore carried.

**Other:** None.

#### **Old Business**

**Replacement of Fuel Tanks:** Dexter said a group of members has been working on getting the UDC fuel tanks

replaced. The installation of a new 500-gallon double-walled steel gauge fuel tank and concrete barriers by Bluestone Environmental is scheduled on 12/3. Staff and members thanked Henry for coordinating this effort.

**Other:** Dexter shared a postcard from the Federal Highway Administration Department of Transportation of PA, talking about continuing to work on the Draft Plan for the Skinners Falls-Milanville Bridge Project. The information was also featured in the *River Reporter*. Ramie said the draft Purpose and Need document for the Bridge study will be released on 12/8.

**Public Comment:** None.

**Adjournment:** A motion by Henry, seconded by Robinson, to adjourn the meeting at 9:32 p.m. was carried.

*Minutes prepared by Ashley Hall-Bagdonas 12-21-2021*