

WATER USE/RESOURCE MANAGEMENT COMM. MEETING MINUTES

July 16, 2024

Committee Members Present: Evan Padua, Bill Dudko, Al Henry, Fred Peckham (Zoom), Jim Rodgers, Pat Jeffer

Committee Members Absent: Christine Martin

Staff: Laurie Ramie, Stephanie Driscoll

NPS Partner: Tara Harbert (Zoom), Andy Weber

Guests: Ginny Dudko, Rick Lander

The UDC's Water Use/Resource Management Committee held its monthly meeting on Tuesday, July 16, 2024. Chairperson Evan Padua called the meeting to order at 6:30 pm.

Approval of the June 18, 2024 meeting minutes: A motion by B. Dudko seconded by Jeffer approving the 6/18 meeting minutes carried. There was no public comment on the agenda.

New Business:

Brief Presentation: "Commercial Use Authorization (CUA) Program Update" by NPS UPDE Administrative Officer Tara Harbert: A PowerPoint presentation was shown on the updates to the CUA program at UPDE. Harbert introduced herself; as Administrative Officer she is the supervisor of the person tasked with managing and administrating the program. That was Debby Seaboldt who has retired as of 6/27 and her replacement should be starting around 8/11. Harbert will be at UPDE in August to train the new employee, which includes how the CUA program operates.

The Upper Delaware had 105 CUA holders as of 2023 including liveries, fishing guides, camps, and food trucks. The CUA cycle at UPDE is two years; the longest under NPS authority that a CUA can be held before someone has to reapply. Operating costs at UPDE are around \$237,000 for each two-year cycle, including staff salaries, benefits, in-field monitoring, travel, fuel, etc. One of the primary legal authorities that is followed with the CUA fee structure is the 1998 Concessions Management Improvement Act: Public Law 105-391. That states that the NPS must collect a reasonable fee for CUAs to recover at a minimum the cost that goes into running that CUA program.

There were three separate fees that went into the previous CUA fee schedule that were bundled and paid upfront at the start of the season: an application fee, administration fee, and monitoring fee. The monitoring fee was tiered, depending on visitors served by that CUA entity per year. From using the tiered fee structure from 2017, UPDE NPS only recovered about 1/3 of total program costs, making UPDE non-compliant (as they've been since starting the CUA program.)

UPDE has identified the CUA program as a place they are lagging in policy. Change is needed to recoup money spent on CUA operations. UPDE is currently using base funding to subsidize CUA program costs. UPDE has decided to implement these changes with the mandatory nationwide CUA online application system rolling out in 2025.

In 2025, there will be a new management fee calculation method using market price percentage on park-dependent gross receipts (PDGR) amounts that all CUA holders already supply at the end of each season on their annual reports. Park dependent operations are defined as commercial activities that are packaged and sold or marketed and include entry into the park boundaries for part of or all of the activity. UPDE plans to phase that in in cycles, asking for 1.5% of PDGR for the first 2-year cycle and 2.0% for the next 2-year cycle. The management fee will be calculated and paid at the end of each season. Since all CUA holders have already paid for 2024, the management fee won't be implemented until the end of 2025. Over the four years throughout this change, this should bring UPDE close to 100% cost recovery mandated by the 1998 Act.

Below is the CUA market price percentage fee the NPS provides as a structure to follow.

CUA Market Price Percentage Fee

CUA Gross Receipts	CUA Management Fee
<\$250,000	3% of gross receipts (minus application fee)
\$250,000 to \$500,000	4% of gross receipts (minus application fee)
>\$500,000	5% of gross receipts (minus application fee)

UPDE had decided to max at 2.0% through 2028 for all park-dependent gross receipts. They are just trying to cover the costs of the CUA program, not generate any revenue, to invest the money back into the CUA program.

Two examples of market price percentage are shown below.

Market Price Percentage Examples

Business A (2%)

- \$80,000 receipts, \$75,000 park-dependent
- 2% of PDGR is \$1,500
- Application fee is \$350 which covers both years
- Management fee for year 1 is \$1,500 minus the \$350 application fee = **\$1,150**
- Management fee for year 2 is **\$1,500**

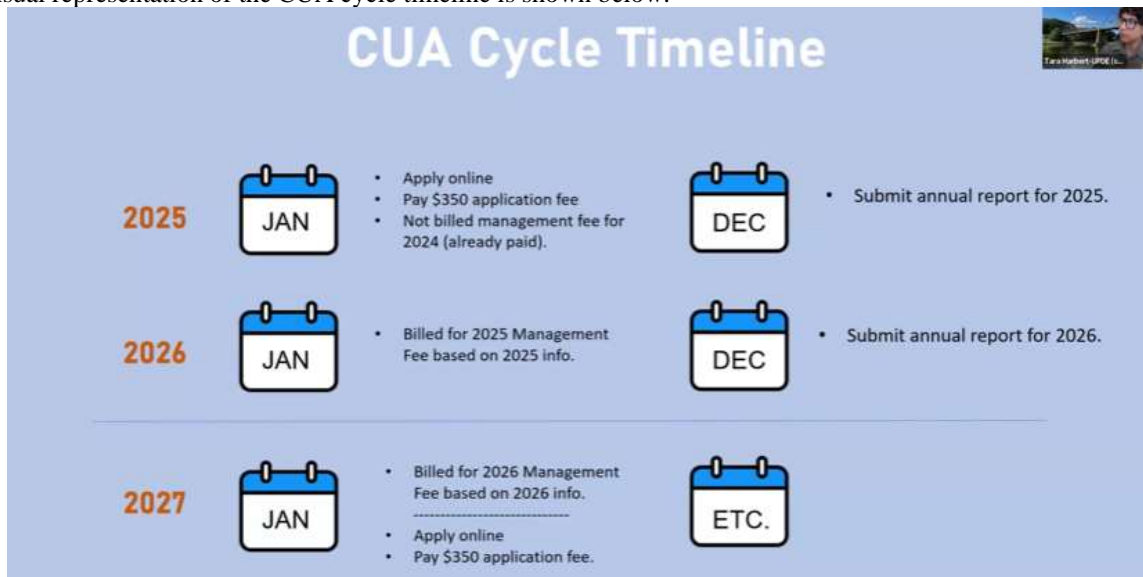
Market Price Percentage Examples

Business B (2%)

- \$15,000 in receipts, all park-dependent
- 2% of PDGR is \$300
- Application fee is \$350 which covers both years
- Management fee for year 1 is **\$0**, park retains the application fee
- Management fee for year 2 is **\$300**

UPDE is required to use the agency-wide online application system starting in 2025. The application fee is paid upfront (\$350). UPDE will keep \$300 and the additional \$50 goes to Washington D.C. The management fee is paid at the end of the season when CUA holders submit their annual reports. You are required to report before you can reapply for a CUA the next cycle. Harbert commented that it has been a struggle in previous years to get annual reports, so they are hoping the online system will help streamline that process.

A visual representation of the CUA cycle timeline is shown below.



Updating the CUA program will align UPDE with required policy, adequately fund the CUA program and in-field operations that support the program, and give UPDE the potential to hire dedicated program staff to further the potential for improvement. There will also be fewer changes needed down the line, since fees will ebb and flow with the local (and national) economy.

Rodgers asked what typical monitoring looks like from NPS for the CUA holders? Harbert said she can't state exactly what they do; they patrol the river and provide a presence at local accesses, among other things. Weber said there is a variety of things that they currently do, and with the CUA updates they can do even more. Harbert said maybe in the future they can be present at the safety talks by local liveries. Any activity in the field is considered monitoring. Padua said law enforcement does check CUA permits throughout the year. He understands there is a monitoring fee for certain reasons, but if law enforcement is already getting paid for that then where is the extra funding going? Harbert said if the CUA didn't exist, what would that officer be doing? Any involvement with a CUA can be recouped as part of the program. When the calculations were done, they didn't take the whole day for a law enforcement officer; it was a fraction of a day or season.

G. Dudko said so many of the federal programs she sees end up being a bureaucracy. What are the liveries and fishing guides getting for the money they are putting in? All she hears that they will benefit from is monitoring, restrooms, and signage. That's not really benefiting the visitors, guides, or the liveries. How is this update helping them? Harbert said they will be sending out more information on where the money goes and the activities involved. For example, UPDE currently pays the Delaware Water Gap (DEWA) for their dispatching services when they respond to emergencies, etc. She can see on the backend how much things like that really cost. The UPDE NPS budget is \$3.8 million with CUA operating costs totaling ~\$120,000. If you think of the salaries plus benefits of the employees who manage the CUA program, it doesn't equal that much time.

Henry thanked Harbert for her presentation. He said that the general public that uses the Delaware River pays no fee. What are the NPS statistics on livery vessels vs. privately own vessels? If liveries have to pay a CUA fee, what does the public have to pay if they need help or emergency services on the river? Harbert said she doesn't have numbers on private vessels vs. livery vessels. The CUA application allows someone to make a profit within park boundaries as opposed to a privately owned vessel which is there for pure recreation. Henry said but the public doesn't pay anything to avail any of the services that the NPS provides, where a CUA holder has to pay to get monitoring fees. He asked if Harbert has read the River Management Program, specifically the Water Use Program, and has she checked with the UDC? Harbert said she has read the RMP and Water Use Program, but what does he mean about checking with the UDC? Henry said if you read the RMP, you'd understand how the NPS and the UDC interact. No one from the council has been contacted about this. You are telling the UDC that you are doing this with no input from the UDC. The RMP dictates what the UDC's responsibility is; operate the river and Water Use Program in conjunction with the NPS. The RMP is a contract that was signed in 1986 by the Regional Director. We need to work as partners. Henry also asked what the penalty is for people operating without a CUA on the river, knowingly or unknowingly? Harbert said one of the primary things appointed to the NPS in the RMP was to manage recreation on the river. She understands that the UDC and NPS should work together and UPDE could have come to the UDC for suggestions. As for law, there is no discussion regarding that. Henry said the law created the council. Harbert said it's also stated in the RMP under Executive Summary that the RMP does not supersede federal law. UPDE has to follow federal law. If they were not under a 180-day deadline they may have been able to come to the UDC for input. Henry said no one knew anyone was under a deadline. If the council knew, we would have worked it out. You need to communicate to the council before making any decisions. Harbert said UPDE Superintended Kurnath wanted to let the CUA holders know about these updates and changes before she told the UDC. She thought that was the respectful thing to do. Regarding the penalty of operating without a CUA, Harbert said that would fall under law enforcement. They know it is an issue that UPDE is devoted to. At the park level, someone's existing CUA cannot be revoked but it can be at the regional level. Padua said penalties for people operating without a CUA comes up at almost every annual meeting for NPS and the fishing guides. At the latest meeting this spring the fishing guides were told if NPS catches someone operating illegally, they will invite them to apply for a CUA before any punishment. After processing that answer, he thinks that's a ridiculous response. He hopes the NPS reconsiders that; if you catch someone operating without a CUA, they should get a more appropriate penalty. Harbert said there are many people that would agree, but she would have to defer to Kurnath or Chief Ranger Winslow for this topic. The authority is different at the park level. She can pass the message along. She doesn't think that's the penalty for repeat offenders. Ranger Ryan Schumacher has recently reported three individuals he believes are operating without a CUA, so law enforcement is actively pursuing this. Padua was happy to hear that.

Padua recognized Rick Lander in the audience and asked if he had any comments. Lander said he's probably one of the larger local liveries and NPS is passing 2.0% to his guests. When the Upper Delaware River was designated a Wild and Scenic River, it was supposed to bring recreation to our region. For every person he puts on the river, he pays federal tax. His guests are also paying taxes just like the private user. For someone to use a livery, they are being double taxed. His guests use his facilities and accesses and don't receive the services NPS gives to the private boaters. Safety is a higher concern at liveries; mandating guests to wear life jackets and giving safety talks, while NPS rangers and staff aren't doing that for private boaters. If the fee wasn't for CUA operations and it was for rangers to be on the river, that would make more sense to him. The CUA was supposed to be a relationship with NPS, but he believes this is a direct insult to what the RMP originally intended. He's made some calls to his congressman to get together and discuss it. He believes that charging more for CUAs, it will drastically change this river valley. Harbert understands where Lander is coming from, she said. In the RMP it says we should follow strict enforcement of existing laws and policies before they go to alternatives. They are trying to strictly follow existing law that's been in effect for quite some time now. They are charging under the recommended amount and trying to meet CUA holders in the middle. Lander said the private boaters and rangers use the livery facilities. If something happens to a private boater, NPS is using private livery accesses. He doesn't think the liveries are getting credit for any of the things they supply to NPS and the private boaters. Harbert said Lander is bringing up some great points. Maybe there can be a meeting where he can bring up what he'd like to see with the CUA updates. Lander said people are coming to this area more because it is a National Scenic and Recreational River. The problem is that the NPS needs to give a bigger impression to the guests. Padua said this is a different topic than CUA updates. Lander said that NPS is saying that the costs will go toward things like that. Harbert said they could potentially after some discussion, but currently that is not calculated into the investment. Padua said there is always room for improvement. He thanked Harbert for the presentation and asked her to consider speaking with the UDC about matters like this in a timelier fashion. It blindsided the UDC and the CUA holders. He does appreciate the adjustment of percentages since this area is not a National Park, but maybe there is a little more room for adjustment down the road.

Harbert signed off from meeting.

Delaware River Flow & Storage Report: Included in the packet for review. G. Dudko commented that we are currently in a heat wave.

Other: None.

Old Business:

6/24 Upper Delaware Scenic Byway Meeting: A copy of the minutes is included in the packet. Ramie said someone has stolen the southbound UDSB "Point of Highest Elevation" (at 1,837 feet) sign along NYS Route 97 in the French Woods area. The sign was originally erected in 2019. The DOT has already ordered a replacement sign. It could take a couple of months for it to be manufactured and installed. It was mentioned that along with that sign, two of the "anti-littering" placards were also missing from Route 97 in Callicoon and Narrowsburg. The UDSB is planning to order two more at about \$100 each. The next step is to come up with some kind of tamper-resistant method. Henry asked how the signs are installed? Ramie said the DOT installs them to their standard specifications. Henry suggested using a strong steel rod in concrete. Ramie said she can make the suggestion.

One grant application came before the board at this meeting for \$500; a 16x16 foot, double sided, illuminated billboard with abstract murals in Barryville on Route 97. If the billboard wasn't grandfathered in, it wouldn't be compliant with current zoning. The billboard was put up on 6/6 and serves as directional signage for four local businesses sponsored it. The UDSB ultimately denied the application for not meeting the standards and objectives of the UDSB, Inc. grant programs.

The UDSB website is still not functioning. The domain seems to be taken over by a foreign language Singapore entity. Chairperson Richard Lowe plans to sit down with the last person who maintained the website to see if there's anything he can do to transfer it back.

A new grant program that provides funding to support the development and promotion of new or enhanced events that drive tourism, increase visitation, and promote economic growth in the county has been announced by the Sullivan Catskills Visitors Association (SCVA). Applicants do not need to be a member of the SCVA to apply, but

it does give priority. Awards must go toward marketing and promotion. The program is funded through very healthy Sullivan County sales tax revenues.

The 10th Annual Honeybee Festival will take place on Saturday, 9/21 at For Delaware, followed by a Pollinator Ball from 6pm-10pm and a later Butterfly Bike Ride. Joan Santo announced that this will be the last time that she will organize this festival. The Good of the Hive founder (who painted the mural on the Narrowsburg Post Office) Matt Willey is interested in taking over the planning and organizing of the festival. The UDSB is planning to invite Santo to the next meeting to find out what the event needs are for 2024.

Chairperson Lowe mentioned that he's been working with Triversity, Inc. of Milford, PA and the NPS on a first-ever local event that will take place on 7/27 called "Paddle for Pride" to support the LGBTQIA+ community. The paddling excursion will start at the Staircase Access and paddle to Kittatinny Canoes Matamoras base with programming to raise awareness of LGBTQIA+ issues and promote river recreation as inclusive.

The three boards involved in The Callicoon Depot project will hold a mixer on 11/14 at Seminary Hill in Callicoon from 4pm-6pm. Seminary Hill has offered to waive the venue fee and offer cider, soft drinks, a cheese board, and charcuterie on the house. There will be a cash bar for beer, wine, and spirits. The Callicoon Depot is holding a "town hall" meeting tonight to give a progress report of where the project stands. Independent cost estimators have submitted their figures for restoration of around \$325,000 to address critical needs of the building, subject to adjustment.

The next UDSB meeting is Monday, July 22.

6/24 BioBlitz Planning Meeting & 6/28-6/29 Upper Delaware BioBlitz: Engelhardt was on the Upper Delaware BioBlitz Planning Committee and volunteered during the event. Tonight, she is attending a Town of Highland workshop on the DEIS for Camp FIMFO. A written description of the event is included in tonight's packet. Ramie attended the dinner at the Highlands Foundation Retreat Center in Boyds Mills on Friday 6/28 where Don Hamilton was recognized as one of the founders of the Upper Delaware BioBlitz. Former UDC Resources and Land Specialist Dave Soete also attended and took photos. There will be more information on the BioBlitz in the summer edition of *The Upper Delaware* newsletter.

6/26 Long Eddy Access Ribbon Cutting and Dedication: Ramie and Rodgers attended the ribbon cutting/dedication at the Long Eddy Access. They commented that it was nice, with a small crowd. Ramie shared photos of the NPS access conditions signs located in the port-a-johns at all accesses. The signs are taped inside the door of the port-a-john with a phone number and email to report access conditions to UPDE NPS.

6/26 DRBC's Water Management Advisory Committee Meeting: Engelhardt participated in this meeting that Ramie typically attends, as Ramie was at the Long Eddy Access ribbon cutting. A write up about the meeting is included in tonight's packet.

6/26 Upper Delaware River Watershed Meeting: Ramie said the draft Upper Delaware River Action Agenda was compiled and sent to the DEC, which had a lot of comments. They want sections removed, including the entire re-granting and implementation sections. It is still in process of being finalized. A link will be sent around to the document and she will help to edit that. They are creating subcommittees to develop bylaws for this group and to serve on the re-grant program subcommittee. Some representatives of organizations were concerned that if they are on that committee, they won't be able to submit an application, which is not the case. The re-grant program will be implemented in 2025, which is when the funding needs to be spent. It will be open to municipal governments, 501c3 organizations, universities, and academic institutions. There are meetings scheduled for the Upper Delaware River Watershed Plan on August 14th, October 30th, and December 11th. There has been a movement to professionalize the Water, Water Everywhere conference that Friends of the Upper Delaware River organizes annually. This year it will be a state wide meeting called the Upper Delaware River Rendezvous on October 16th and 17th at Villa Roma Resort in Callicoon with a \$100 registration fee per person for both days. They will be seeking sponsorships. The \$100 registration fee is an "early bird" discount through August 30th. Ramie will bring this up to the Operations Committee meeting on 7/23. The conference will include field trips such as a walk along the O&W Rail Trail, a guided fishing excursion to the Callicoon Creek Park, and visiting different project sites.

6/26 D&H Board of Trustees Meeting: A copy of Ramie’s minutes is included in the packet for review.

7/9 Sojourn Committee Meeting: This was the first post-Sojourn meeting to discuss how everything went with this event. Engelhardt included notes in her written report in tonight’s packet. Padua commented that there were a couple of health concerns. Ramie said we were in a heat wave then. Padua said he read there was a person who refused medical care after coming off the river not feeling well. They went back to the campsite alone after Sojourn volunteers advised against this. Padua asked how that person got back to the campsite? Driscoll said Engelhardt told her that the person was told to stay in the livery van (with AC) and that volunteers asked livery staff not to take the person back to the campsite. Somehow, the person must have convinced the livery staff to drop him off. Padua thanked Engelhardt for all she does for the yearly Sojourns.

7/10 Water Safety Meeting: A copy of the notes is included in the packet. G. Dudko commented on the new signage at Delaware River Water Gap that states: “Grieving families have waited here for their loved one’s body to be recovered.” Driscoll said she liked what Kurnath had said about it, the sign is both “horrible and powerful.” Henry said there is a comment in the notes about the recent drowning at UPDE where it says “Make no comment to the press.” What does that mean? Driscoll said she thinks they just want anyone to refer to Chief Ranger Winslow or Kurnath as a main point of contact for incidents. Weber agreed. Henry said there was nothing about a drowning at Skinners Falls in the local papers. It’s public information though, so anyone should be able to make a comment. Ramie said there should always be one spokesperson, so that’s probably what they meant. B. Dudko said when he was part of the fire department, you had to refer to the Chief for any comment.

Evan asked if Park Ranger Babus was picking up garbage at the Life Jacket Return Station at the Matamoras Access; isn’t that out of the UPDE territory? Henry said that is more of a “no mans land” area, if there is a Life Jacket Return Station there that’s probably why he was there. Padua said it’s nice to pick up garbage, but maybe we can focus more at the accesses on the Upper Delaware, like Skinners Falls.

Padua commented that putting the new “No Glass” signage physically at the stores instead of out around the river is a great idea. It makes sense to put them up at stores before people buy glass; it would help eliminate the problem. G. Dudko asked Lander if they tell guests no glass? Lander said yes, there’s also a NPS “No Glass” sign and they don’t sell any. Rodgers asked what the citation is they would get for glass? Who administers those? Henry said the NPS. They can write and administer citations.

Other: None.

Public Comment: None.

Adjourn: A Motion by B. Dudko seconded by Rodgers to adjourn the meeting at 7:55p.m. was carried.

Meeting minutes prepared by Stephanie Driscoll, 7/19/2024