

UPPER DELAWARE COUNCIL MEETING MINUTES

March 3, 2011

The Upper Delaware Council held its regular monthly meeting on Thursday, March 3, 2011 at the Council office in Narrowsburg, NY. Chairperson Dolores Keesler called the meeting to order at 7:35 p.m. A motion by Boyar seconded by Rando to approve the Feb. 3 meeting minutes was carried with 1 abstention. There was no public comment on the agenda.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder Jr., Damascus Township-Dolores Keesler, Town of Cochecton-Larry Richardson, Town of Tusten-Sue Sullivan, Berlin Township-Lillian Russell, Town of Highland-Andy Boyar, Town of Lumberland-Nadia Rajsz, Town of Deepark-Phil Chase, Shohola Township-Scott Rando, State of New York-Bill Rudge, and National Park Service-Sean McGuinness. Also in attendance: Damascus Township Alternate-Jeff Dexter. Absent: Lackawaxen Township; Westfall Township; Commonwealth of Pennsylvania; Delaware River Basin Commission.

Committee Reports: The committee meeting reports were provided based on the meeting minutes. They were: Feb. 15 Water Use/Resource Management by Chase; Feb. 23 Operations by Keesler; and Feb. 23 Project Review by Peckham.

Rajsz asked Rudge if New York City was building the filtration plant for Croton and Rudge said yes. Rajsz said would NYC still not use the water. Rudge explained it may not be true that NYC is not going to use the water. That would need to be checked into through NYC. Chase mentioned NYC was trying not to build a Catskill Delaware filtration plant and they're buying land instead to protect the reservoir water. Rudge noted that NYC is working with the EPA and it gets a waiver to avoid filtration.

Status Reports

Delaware River Basin Commission: The DRBC was absent, however, handouts were provided. A news release was issued by DRBC March 2 indicating that the period for submitting written comments on the proposed natural gas development rulemaking would be extended an additional 30 days through the close of business (5 p.m.) April 15, 2011. The comment period was to have ended March 16.

The NYC Delaware River Basin reservoir storage as of Feb. 25 was at a combined capacity of 81.8%; with Cannonsville at 81.5%. The Delaware flow at Montague averaged 6,778 cfs, or 119% of normal. The next update will be published on the DRBC website, www.drbc.net, end of business on March 4.

NYS Dept. of Environmental Conservation: Bill Rudge said he wanted to clarify something Chase had said regarding the turbidity through the waste channel at Ashokan Reservoir (Esopus Creek). DEC filed suit taking NYC DEP to task for the turbidity. NYC had a permit but needed to do certain things in the permit and NYC chose not to. Rajsz asked what happened at Ashokan. Rudge explained that there were two catch basins in the upper basin that functions as settling pond. At times during storms early October and December turbidity is caused. The upper basin held the turbidity and NYC passed that water on instead of using it. It impacted the Esopus. State laws govern the amount of turbidity in water. The Esopus goes into the Hudson River. The turbid water was created naturally, but NYC decided not to hold onto the water and let it go into Esopus eventually.

Rudge mentioned the DEC news releases handed out. 1) The DEC is currently developing a proposed revision to the regulations that would allow baitfish to be transported overland within defined "transportation corridors" for use within the same waterbody from which they are collected. DEC anticipates issuing a Notice of Proposed Rulemaking in March to be followed by a 45-day public comment period. The current baitfish regulations contain prohibitions on the overland motorized transport of baitfish, including personally collected baitfish and baitfish collected for commercial use. The rule was established in 2007 after an outbreak of viral hemorrhagic septicemia (VHS), a disease that can cause internal bleeding and death in certain fish. While VHS was the primary concern, other serious fish pathogens were also addressed when the rule was established. Rudge mentioned the department was making a concession to the public with the transportation corridors being used. He told the board if they wanted the Delaware River corridor included, they should contact him.

2) The annual written examination for New Yorkers interested in becoming a licensed volunteer wildlife rehabilitator would be given on April 22 at DEC regional offices across the state. The deadline for registering to take the exam in April 1.

3) The examination for individuals seeking an apprentice license to practice the sport of falconry is scheduled for April 22 at DEC regional offices across the state. The deadline for registering for the exam in April 1.

Rudge reported the Livingston Manor Flood Mitigation Plan for Willowemoc and Beaverkill will provide for the U.S. Army Corps of Engineers making a presentation to DEC and residents in Livingston Manor and the Town of Rockland on flood mitigation.

National Park Service-Upper Delaware: Sean McGuinness reported the continuing resolution relative to funding is on until March 18. He said he was working with the regional office about UDC's situation. There could be contingency money to tap into. However, these are competitive funds and we have to have a good reason for its use, and it has to be essential to UDC operations. Richardson requested that this item be put on the UDC's Operations Committee agenda.

It was reported there was a site review at the Pond Eddy Bridge project regarding a safety plan for emergency repairs and keeping the debris out of the Delaware River main stem.

Next week a meeting is scheduled with the Boy Scouts of America about the Ten Mile River access plans for the future.

McGuinness announced the hiring of a new Chief Ranger, Joe Hinkes. Hinkes will start in the Upper Delaware on March 13 and will be introduced to the UDC shortly.

Russell asked if the NPS submitted a comment letter to the DRBC on the draft gas regs. McGuinness explained that NPS-Upper Delaware sent their comments to the regional office. The regional office will compile the comments received from all the NPS units impacted and will submit one comment letter from Region.

Niflot commented the No. 2 railroad bridge in Sparrowbush is hard to get to and it's an interesting historical spot. He wondered who owned the road access. McGuinness noted it was private. Rando offered that the road was bad in the winter. Niflot asked about during the summertime. Rando said there's an access there through the DEC and it goes into a private area. Some users were using ATVs up the banks and we've called DEC. Sullivan added the road leads to the Lenape Trail, public hiking operated by the Town of Tusten. You can get to No. 9 Bridge through the public hiking trail.

Soete explained there were two different bridges, No. 9 Bridge and railroad bridge No. 2 by Cherry Island. Niflot said people want to see where the Erie Railroad comes across and you cannot see the bridge from anywhere. Rando said he's seen people walking up there with no problems. Sullivan mentioned that land is Boy Scout property; Rando noted that if you keep on the trail it's not an issue.

UDC Executive Director's Report: Bill Douglass mentioned that UDC was asked to participate with the Pennsylvania River of the Year (Delaware River) event committee. It would involve monthly teleconferences and emails. Ramie could do. PA DCNR held a voting contest and the public chose the Delaware River from the list of rivers submitted for the River of the Year title. Douglass said there's a ROTY leadership team separate from the Delaware River Sojourn. So far members on the leadership team include the Delaware River Basin Commission, Friends of the Delaware Water Gap, D & H State Park, PA Environmental Council, Lackawaxen River Conservancy, among others. The leadership team will plan events throughout the year to celebrate the River. Peckham asked if Ramie had the time to devote to this project and she said the time commitment was up to the UDC. The committee is in place and there was no

time limit to join the team. She'd be doing promotion of the river anyway so might as well join the team. Richardson and Peckham recommended the matter be discussed at the Operations Committee meeting.

Old Business

Upper Delaware Scenic Byway, Inc. donation to UDC: Nadia Rajsز, chairperson of the Upper Delaware Scenic Byway, Inc., said she was pleased on behalf of the UDSCB to present the UDC with a donation of \$2,750 for fiscal year 2011 toward UDC staff support services and facility use that supports the Byway projects and they'd be hard pressed to continue operation without this support from UDC. She mentioned that Ramie was a tremendous asset to the Byway.

New Business

UDC 3rd Draft Comment Letter to DRBC-draft natural gas development regulations: A motion by Boyar seconded by Rajsز to approve draft comment letter to the DRBC regarding the draft natural gas development regulations dated Dec. 9, 2010 relative to DRBC Article 7 of Part III of the Basin Regulations. Discussion followed. Boyar felt the draft letter was vetted well through the committees. He said the radioactive water language was taken out, but due to recent events and media reports he asked that it be put back into the letter. Roeder commented that he approved of that but after sleeping on things he had concerns with the 500 foot setback by DRBC, but DEC has setback rules for wetlands and construction. Rudge noted wetlands do, but not streams. Wetlands have a 100 foot boundary and involve a special review with the DEC. Roeder felt we should align the setbacks with the state rules. Peckham added there's a 330 foot setback from the state border. Rajsز felt Roeder's idea would bring things closer to the river. Sullivan asked what the buffer zone was around the NYC reservoirs. Rudge replied the City owns that land and it varies with each parcel. DEC defines their watershed boundary. There needs to be a special review for anything inside the watershed boundary. Boyar suggested voting items up or down if there was no agreement to the letter. Richardson said he agreed with that. Back when the RMP was evolving the gas wells were different. Now there's a reason to say heavy industrial use. Peckham felt there was enough room in the river corridor to put vertical in the plan.

Boyar and Rajsز called the question. The motion passed with 2 nays and 1 abstention. Boyar made a motion that the radioactive language be restored in light of media reports on this radioactivity, which Soete read aloud. The motion was seconded by Rajsز and carried, with 1 nay and 1 abstention.

Peckham mentioned some other changes through a motion that was seconded by Roeder. Roeder said he'd like to emphasize that the River Management Plan calls for no more than 2 acres clearing in the river corridor. He wanted to see that pointed out. Peckham commented that we cannot deny gas drilling in the river corridor. That eliminates vertical wells. Rajsز questioned how that would eliminate "heavy industrial use". Roeder commented we have to follow the River Management Plan, saying no to horizontal drilling in the river corridor. Boyar noted that the letter was vetted by committee. They could take a vote on the motion. Peckham said we believe horizontal drilling could be considered heavy industrial use which is incompatible with the River Management Plan and therefore incompatible in the river corridor.

McGuinness offered that we're commenting on the proposed draft regs, not changes to the River Management Plan and he read some items from the draft regs. Peckham said maybe we could take out heavy industrial use and say because of size and scope of natural gas development as defined in Section 7.2 of definitions, we believe that it should be incompatible anywhere in the river corridor. There was further discussion and Peckham decided to withdraw the motion.

The UDC's letter strongly referenced the planning goals and provisions of the River Management Plan for the Upper Delaware Scenic and Recreational River in addressing concerns and offering recommendations to the DRBC. The seven-page letter will be posted on the UDC's website, www.upperdelawarecouncil.org.

Public Comment None

Adjournment A motion by Rajsز seconded by Richardson to adjourn the meeting at 9:25 p.m. was carried.

Carol Coney, Office Manager