

Upper Delaware Council  
**WATER USE/RESOURCE MANAGEMENT COMM. MEETING MINUTES**  
**August 16, 2011**

Committee Members Present: Tony Ritter, Phil Chase, Andy Boyar, Scott Rando, John McKay  
Committee Members Absent: Jay Shafer  
NPS Partner: Don Hamilton  
Staff: Bill Douglass, Dave Soete, Laurie Ramie  
Guests: Anne Willard

The UDC's Water Use/Resource Management Committee held its monthly meeting on Tuesday, August 16, 2011 at the Council office in Narrowsburg, NY. Chairperson Ritter called the meeting to order at 7:16 p.m. A motion by Boyar seconded by Chase to approve the July 19 meeting minutes was carried. There was no public comment on the agenda.

**New Business**

**Delaware Riverkeeper 7-29-11 Letter to NPS Regional Director: Holbert Quarry Expansion:** The committee reviewed a July 29, 2011 letter addressed to National Park Service (NPS) Northeast Regional Director Dennis Reidenbach and signed by Maya K. van Rossum of the Delaware Riverkeeper Network (DRN). The letter states, in part, "DRN is now writing to you to express our concerns with the Holbert Quarry Expansion project, which we believe poses a significant threat to the water quality, aesthetics and overall health of the River Corridor – our concerns exist for both current quarry operations and particularly from the proposed expansion. We are also concerned that the recently approved Lackawaxen Township Conditional Use Permit could easily become a precedent-setting decision within the Upper Delaware Scenic and Recreational River corridor. DRN urges the NPS to challenge the decision made by the Lackawaxen Township Supervisors." The letter references the location of the quarry within the river corridor, the Lackawaxen Township Supervisors' decision to deny standing to both NPS and the Upper Delaware Council on this matter, and predicts that "If Holbert Quarry and Lackawaxen Township can approve land use changes that contradict and violate the RMP, others will certainly follow." Committee members offered no comments on the letter.

**PA DEP 7-21-11 Inspection Report of Holbert Quarry, Lackawaxen Township:** An eight-page report from the PA Department of Environmental Protection's Bureau of Mining and Reclamation's July 21, 2011 inspection of permit holder Wayne D. Holbert's quarry operations in Lackawaxen Township, and a two-page Compliance Order dated July 27, 2011, were handed out for review. Soete summarized that the inspector determined that the quarry has exceeded by approximately 4.7 acres its maximum allowable two, 5-acre permits and that the quarry's boundaries have not been accurately identified. The corrective action listed in the Compliance Order states that, "Except for reclamation, all noncoal surface mining and/or mining-related activities in all areas situate outside of the boundaries of the two 5.0 acre Mining Permits are ceased immediately. Before or by 8:00 a.m. of 9-26-11, the operator has to: 1) Accurately mark the boundaries of the bonded areas of the two 5.0 acre Small Noncoal Mining Permits, restore the boundary berm between them, and submit it to the Pottsville District Mining Office's Permitting Section a complete, accurate and up to date Large Noncoal Surface Mining Permit Application, including the required bond, that will cover at a minimum all unreclaimed acreage that has been affected or reaffected by the operator's surface mining and/or mining related activities on these two permits and within 1500 feet of these permits; or 2) Accurately mark the boundaries of the bonded areas of the two 5.0 acre Small Noncoal Mining Permits, restore the boundary berm between them, and reclaim to the satisfaction of the Department all unreclaimed areas that have been affected or reaffected by the operator's surface mining and/or mining related activities that lie outside of and within 1500 feet of these permit boundary markers; or, 3) Reclaim to the satisfaction of the Department all unreclaimed areas that have been affected or reaffected by the operator's surface mining and/or mining related activities on these two permits and within 1500 feet of these permits." Boyar recommended circulating the entire report to all UDC members in advance of the next full Council meeting on Sept. 1.

**Equinunk Watershed Alliance 7-21-11 Organizational Update Letter:** Ramie noted that the UDC had provided support letters years ago for Growing Greener grants that helped establish the Equinunk Watershed Alliance (EWA), and had also honored the watershed group with a Community Service Award in 2007. This letter co-signed by Wayne Conservation District Watershed Specialist Jamie A. Knecht and EWA President John J. Fletcher, provides an update to the UDC on its organizational progress. EWA obtained 501(c)3 status, currently has around 20 members, has purchased water testing equipment, and held a watershed clean-up day. Moving forward, they would like to secure funding for a watershed management plan and stream restoration projects. The impetus for EWA's formation was the extensive flooding that the village of Equinunk endured in 2004, 2005, and 2006. Hamilton noted that NPS Upper Delaware Scenic and Recreational River staff has met with EWA to provide lessons on water quality and macroinvertebrate sampling. He said they are engaged in a good effort to be stewards of their streams.

**Delaware River Flow and Storage Data Report as of 8-12-11:** Ritter explained that the data listed on the Delaware River Flow and Storage Data report as of Aug. 12 was before we had rain over the last several days. Its documentation of 88.5% storage in the reservoirs is probably closer to 90% at this point. It's way above the median. Under the new flows regime, Ritter said he wonders whether they'll start releasing more water in September now.

**Other:** None

### **Old Business**

**Update on Alleged Illegal Fish Hatchery on Big Island, Town of Delaware:** An article from the Aug. 9, 2011 issue of the *Sullivan County Democrat*, "Illegal fish hatchery found on Delaware; ordered to shut down by DEC" was handed out. National Park Service personnel reportedly discovered evidence of an unpermitted fish farm being developed on Big Island in the Town of Delaware in July and reported their findings to the NYS Department of Environmental Conservation. The DEC inspected the site on July 29 and issued several violations to the operator, who was allegedly leasing the land from the property owner. The violations pertained to water quality, mined land reclamation, inland fisheries, and water resources disturbance. The operator was ordered to have a written remediation plan ready for the DEC's review by Aug. 15 and to return the land to its pre-hatchery conditions by approximately the end of the month. Ritter said that two photos accompanying the article were taken by a fishing guide colleague as he led a charter from Callicoon to Skinners Falls on Aug. 7. The photos show pipes extended into a constructed pond and a bird trapped in monofilament line strung across the pond as an apparent deterrent to keep birds away from the fish. Hamilton said that NPS was tipped off by some residents on the Pennsylvania side who witnessed the construction activity. The site is not visible from the NYS Route 97 highway. Ritter commented that anyone familiar with that area of riverfront property couldn't miss the noise of the generators and the sight of the PVC pipes as atypical. McKay asked where the excavated material was taken. Hamilton said they built sand berms around the operation. NPS is keeping an eye on whether any effluent is going back into the river. It remains an active investigation by the NYS DEC, NPS, and U.S. Fish and Wildlife Service. Rando said that tilapia farming is becoming more popular due to demands for the fish as a food source, but these freshwater fish would not have survived our winters. Rando expressed concern for potential bird kills from the monofilament line. The article stated that the DEC ordered the operator to immediately remove any monofilament line or other netting that may entrap, injure or kill birds and other wildlife. Boyar said this incident raises a major red flag because this was a new type of commercial operation within the Upper Delaware Scenic and Recreational River corridor that was not a grandfathered business. What would happen if the tilapia got into the river? Would there be implications for invasive species or parasites from diseases? Hamilton agreed that the elevation of the ponds on the property was only about 12 feet above normal levels and that the entire Big Island property floods regularly. Chase and McKay marveled over how the operator apparently intended to proceed without a permit. Boyar asked whether there was any action feasible for the UDC to take other than to monitor the remediation. Ritter said that it was in the hands of regulators now, as well as having received publicity to alert citizens. Hamilton said he expects more information to come out about the fish hatchery.

**D&H Transportation Heritage Council 7-20-11 Quarterly Meeting Report:** Ramie reported that the D&H Transportation Heritage Council held its quarterly meeting on July 20 at the new Sullivan County

D&H Museum located on Bova Road in Phillippsport just off Rt. 209. Photos from the new museum facility will be featured in the UDC's next newsletter. Attendees discussed a project to produce a series of seven, 5-minute videos explaining the history of the D&H Canal and Gravity Railroad in documentary style for posting on You Tube and other websites. Transcripts for the narratives are being written by Council members. Freelance photographer David Doonan of Montgomery, NY addressed the group about his intention to apply for a National Press Photographers' Association grant to prepare a multimedia project that would focus on community efforts to preserve the D&H Canal features. The announcement of the \$3,000 grant awards is expected in November. Members shared upcoming events, accomplishments, and concerns. The next quarterly meeting of the DHTHC will be held in High Falls, NY on either Oct. 12 or 19 depending on available scheduling.

**Upper Delaware Scenic Byway 7-25-11 Meeting Report:** Ramie offered highlights from the July 25 monthly meeting of the Upper Delaware Scenic Byway, Inc. A long discussion took place on the potential impacts of natural gas drilling activities on NYS Route 97. While not taking a side for or against gas drilling, UDSB, Inc. is opposed to any alteration of the values that qualified the highway for its scenic byway designation. It was decided to draft a follow-up resolution to one that the board approved on Feb. 28, 2011. The new resolution will call for no heavy industrial truck traffic on Rt. 97. It is expected to emphasize the area's rural heritage; note the traditional business uses of this highway for bluestone mining, logging, and boat liveries; express concerns about safety and the environment; and ask those in authority to prohibit heavy truck traffic in any degree possible. If the UDSB board approves the resolution, it will be forwarded to the UDC with a request for support. Regarding the UDSB Visitor Center, the committee received a copy of the letter that NYS Department of Transportation Commissioner Joan McDonald sent to Congressman Maurice Hinchey on his question asking DOT to clarify whether the existing federal earmark that he sponsored to provide construction funding for the UDSB Visitor Center could be used for the proposed new site in the Town of Tusten. McDonald wrote in her reply, "Because the project would move from the Town of Cochection to the Town of Tusten, it would be outside the physical limits of the project funded in SAFETEA-LU. For that reason, FHWA does not have the flexibility to make an administrative modification to fund the visitor center project if it were to be constructed in the Town of Tusten. The only mechanism for changing the description and advancing the project is through further congressional action." Ramie noted that UDSB, Inc. intends to pursue a new federal earmark listing the Tusten location. Congressman Hinchey's office has stated that no earmarks are expected to be considered before the end of the year but the federal funding program currently remains secure. In the meantime, Ramie noted that the \$25,000 state grant-funded feasibility study to explore development of the visitor center at Sullivan County's Fort Delaware property in Narrowsburg will get underway next month. The consultants will hold their first project meetings on Sept. 15 and 16. The manufacturer of the eight community signs being produced under an FHWA grant anticipates that the completed panels will be shipped on Aug. 18. The 2 x 4-foot exterior panels with personalized local content will be installed on metal posts in each of the eight participating UDSB member municipalities. UDSB, Inc. learned of a new 61-mile scenic byway that is being proposed for Route 30 along the East Branch of the Delaware River from Grand Gorge to Hancock. It would include the Towns of Hancock, Colchester, Andes, Middletown, and Roxbury. Themes of logging, farming, and mining would be highlighted. The Town of Hancock, which has opted against joining the UDSB to date, agreed to support development of the Route 30 byway for the time being but offered no commitment to join. UDSB, Inc. received copies of a new Delaware County brochure in which it is an advertiser called "Guide to Recreation and Cultural Attractions in the Great Western Catskills." UDSB, Inc. submitted its requests for 2012 operational funding to Delaware, Sullivan, and Orange Counties on July 7, but notification was subsequently received from Sullivan County that all outside agencies must reduce their 2011 funding allocations by 15%. UDSB, Inc. had requested \$2,000 each from the three counties. An offer has been extended to the Greater Barryville Chamber of Commerce to add its membership listings to the UDSB website as a cross-promotion. UDSB, Inc. has been approaching the major business organizations in the river valley with this idea that involves only a nominal cost for the transfer of data. The next monthly UDSB, Inc. meeting will take place on Monday, August 22.

**Pond Eddy Bridge Project Consultants' Team 8-2-11 Teleconference Report:** At the Aug. 2 teleconference of consultants working on the Pond Eddy Bridge Project, Ramie reported that a July 25 meeting between the National Park Service Upper Delaware, NYS DOT, PennDOT, and Federal Highway Administration was discussed. NPS supports the replacement concept but had concerns over the plan to

build the new bridge upstream from its current footprint. The agency representatives explained to the Park Service's apparent satisfaction that there would be engineering complications raised by the number and placement of piers in the river. The next step will be for FHWA to formally reply to NPS. The Memorandum of Agreement for the bridge's replacement has been circulating among the consulting parties and may be executed by the end of August. Among the comments received were "pro" from Shohola Township, PA, which urges an expedited replacement, and "con" from Friends of the Pond Eddy Bridge, which objects to the environmental clearance process and has favored rehabilitation. A mussel survey by USGS that is required as part of the SEQR Environmental Assessment and was supposed to take place in July was delayed by the need for an additional New York State permit and high water conditions. For the cost-sharing of the bridge replacement, it was reported that Pennsylvania has its funding in place while New York is still working on it. The next Pond Eddy Bridge Project Consultants' Team teleconference will be held on Sept. 13. Boyar expressed surprise that it's taking so long for the Pond Eddy Bridge to be built in comparison with the Shohola-Barryville Bridge since the water conditions are obviously similar and all of the issues have been so thoroughly vetted.

**Other:** 1) Soete asked Hamilton whether NPS has any updates to offer on the recent **Upper Delaware River drownings** that have occurred. Hamilton said that new signage has been installed at popular swimming locations to discourage individuals from attempting to swim across the river. The language and style were adapted from signage used at the Delaware Water Gap National Recreation Area. Rando pointed out that the messages are bilingual. Hamilton said that the five drownings this summer are presenting a challenge to NPS staff to consider ways to effectively educate the public. Ritter commented that newcomers underestimate the power of the river. 2) Chase asked for clarification on what will happen next with the **PA DEP's inspection report** on the Holbert Quarry. Boyar replied that the DEP is the regulatory agency in charge of this matter while the UDC is an interested observer. Rando agreed that there is no action that the UDC needs to take. This just provides facts.

**Public Comment:** Anne Willard from *The River Reporter* said that she read the Holbert Quarry inspection report carefully. She urged the UDC to look at whether there is a history of non-compliance by this applicant as well as the history of oversight by the PA DEP. Hamilton observed that the report states that the last inspection was done in 2007, unless that refers to when this particular DEP inspector was last at the site. McKay said that he operates a quarry that gets inspected annually. He would be incredulous to learn that Holbert's quarry had not been inspected for four years. Rando said that PA DEP should have a contiguous reporting system regardless of the specific personnel involved. The report also states that there were no prior violations. Soete said that when Holbert applied for the second 5-acre permit he holds from the DEP in 2005, that was reportedly done because of a prior violation. Willard said those confusing issues are why she encourages the Council to question the DEP as the enforcer of its permits.

**Adjournment:** A motion by Rando seconded by Chase to adjourn the meeting at 8:20 p.m. was carried.