

Upper Delaware Council
WATER USE/RESOURCE MANAGEMENT COMM. MEETING MINUTES
Nov. 16, 2010

Committee Members Present: Serio, Chase, McKay, Keesler, Rando, Ritter
Absent: Boyar, Shafer
NPS Partner: Hamilton
Advisory Members: None
Guests: M. Flaherty, NYS DEC; A. Willard

The UDC's Water Use/Resource Management Committee held its monthly meeting on Tuesday, Nov. 16, 2010 at the Council office in Narrowsburg, NY. Chairperson Jim Serio called the meeting to order at 7:02 p.m. A motion by Rando seconded by Keesler to approve the Oct. 19 meeting minutes was carried. There was no public comment on the agenda.

Report FUDR Flows Meeting Nov. 4: Chase reported on the Friends of the Upper Delaware (FUDR) meeting held Nov. 4 at West Branch Angler Resort near Hancock, NY. He noted there were numerous organizations represented involved with flows management, such as NJ Council Trout Unlimited, PA Fish & Boat Commission, NJ DEP, UDC, guide services, PA Trout Unlimited, NYS DEC, NPS-Upper Delaware, Theodore Gordon Flyfishers, U.S. Fish & Wildlife Service, DRBC, and USGS. There were a number of speakers including TU, NJ DEP, Peter Kolesar and Jim Serio, among others. Panel discussions were also included. This was a first meeting relative to whatever it would take to get good releases for the Delaware River. Not all details are ready for public information but that will come in time.

Keesler inquired if the discussions were basically the same as was discussed in committee. Serio indicated they were. Keesler noted that the letter the Council received from Elaine Richart of ACU indicated they were not in favor of the FFMP. Serio added that Aquatic Conservation Unlimited was a non-profit group downriver originally formed for flood issues, but now it has expanded to include all rivers. During her presentation at the committee, Elaine said to go back to the Supreme Court Decree and start over. She presented data to back that theory. Ritter felt that Elaine had some valid points.

Serio noted that the committee comment letter was referred back to the committee from the November UDC meeting for another look and because Chase and Boyar weren't at the committee meeting when the letter was originally approved for Council action. Keesler commented we've done this issue for six meetings.

Serio said the result of the FUDR meeting was everyone would be working together and NY and PA asked to move forward as a group. The FUDR meeting involved fisheries groups and they discussed how to improve the River. Soete added that other groups are also working on a comment letter about the FFMP. Ritter commented at the FUDR meeting they read the TU letter dated July 29, 2010 addressed to Secretary Salazar of the U.S. Dept. of Interior. That letter was handed out to the committee and he asked they take a moment to read it. Hamilton asked if there was any response from Salazar to the letter. Ritter said he didn't know but he wanted to hand it out as it pertained to the FFMP. Hamilton asked if the letter was an introduction to the Root Cause issue and Serio said yes.

The members took a moment to read the letter. The letter is requesting the involvement of the Dept. of Interior in the management of the upper Delaware River watershed. They are distressed that the DRBC appears to have forgotten its responsibilities being the regulatory agency responsible for assuring that the river is properly managed and that DRBC is allowing New York City to blatantly violate the Supreme Court's 1954 Decree. Attached to the letter was the position paper (Root Cause) that outlined the facts in support of the TU request for the DOI intervention to ensure a properly balanced water system for all of the involved parties.

Hamilton asked if the leak in the NYC aqueduct of 35 mgd was considered part of consumptive use, and Serio said yes, once it leaves the dams. McKay wondered if NYC has reduced its water consumption and Serio said yes and mentioned some of the measures taken by the City to do so. Serio didn't feel that the City's use would reach the 800 mgd it's entitled to any time soon unless there was some kind of catastrophe where they had to take more water out of the Delaware system. Hamilton referenced the TU letter where it says the DRBC has not acted to protect the interests of all the Decree parties, specifically the states and citizens of PA, NJ and Delaware. He asked if DRBC is really responsible for protecting the interests of Decree parties or is it the place of the Decree parties to bring issues up to the

DRBC. Serio didn't feel it was the DRBC mission to protect the Decree parties as such. DRBC is to keep peace and protect the river and provide a forum for consensus. The DRBC was formed in 1961 and was not part of the Decree. It was formed to oversee things. McKay added they're regulatory for water quality and quantity also. Serio said the DRBC cannot change the Decree. The watershed advisory committee of DRBC was formed to do a new management plan for the watershed. Areas of need were listed in the Basin Plan done four or five years ago.

Serio mentioned that in the Root Cause attachment it mentions that while the fundamental approach of the plan seemed like a step forward, the FFMP continues to short-change the river, its fish and wildlife, and the downstream communities that depend on the Delaware. He felt that was a true statement; the FFMP doesn't allow enough water to optimize the Delaware River. However, the FFMP alters the way the water is released from the system. The next step should be to release more water when the reservoirs are full. We want to get more towards higher releases, and more controlled releases will mean less spillage and less flood risk. McKay said he'd like to see a nice, steady flow. Chase felt this summer was a disaster on the river. Ritter felt the river was being mismanaged and the FFMP doesn't work. Chase again mentioned the Rand Commission study that suggested 440 mgd and in the 1980s it went to 800 mgd. The Rand study said the 800 could be scaled down. Serio asked for a copy of the Rand study.

Chase commented that once NYC closes the aqueduct for repairs more water will be taken from the Delaware System. Serio noted about 38% of the water going into Cannonsville Reservoir spills. Chase said the River Master reports indicate they are diverting more water from Cannonsville but they're not releasing enough water for the resource.

Old Business

Draft Comment Letter FFMP to DRBC Chairperson (referred back to committee from Nov. UDC meeting): Chase said he had a problem with the letter from UDC seemingly backing the FFMP. At the FUDR meeting, more and more people are realizing we're being short-changed. Chase thought the committee should not send a comment letter until spring. Keesler reminded that the FFMP expires in May 2011. Chase said they may decide to go back to Revision 1 instead of the FFMP. Hamilton added Rev 1 isn't the only option available. Chase noted FUDR and others will learn more in the next two months about this situation. Serio mentioned that the RFAC (Regulated Flow Advisory Committee) is meeting Dec. 14 this year. It would be too late to send the letter after that as our comments should be heard at the beginning of the process. Serio reviewed the releases over the years with the different Revisions passed by the Decree parties and handed out a colored graph depicting West Branch Releases and comparing flows under the Decree, Rev 1, Rev 7, FFMP, PA/NY White Paper, and NYC's OST proposal. Ritter noted this summer the main stem Delaware temperatures were too high in the month of July and FFMP didn't seem to work. The NY-PA white paper on the graph comparison looks good to me. Soete felt the PPL release should not count toward the flow target at Montague and Serio agreed. Flaherty thought a second target might be needed.

Serio said after all the committee discussions, he felt the draft letter basically covered it. He asked the committee to read the letter again and come up with suggestions. More discussion was had. Chase made a motion to not send the letter; the motion was not seconded. The committee provided amendments to the draft letter. A motion by Rando seconded by Keesler to send the amended letter to the committee for any further input. Serio indicated the committee should send their input to Chase as the committee vice-chairperson as he didn't have the time commitment at this point. Chase could then provide Soete with the input and the draft would be forwarded again to the Council for action. The vote on the motion was carried, with one nay.

Upper Delaware Scenic Byway Update: Ramie reported the invasive species project is continuing and a brochure and four educational seminars are being planned for 2011. Interpretative signage project is continuing with the eight Byway members entitled to metal signs along the route which would include the map, logo, and narrative that would be site specific. The municipalities have to agree on the signs and the information to be included. The deadline is June 1, 2011 for this project.

The Federal Highway ruled against using county property they already have as matching funds. We can use in-kind services and use a state grant toward the matching funds. The next Byway meeting is Nov. 22.

Pond Eddy Bridge Update: Ramie reported there was a Nov. 12 conference call regarding the Pond Eddy Bridge project. The NYS historical preservation agency is to pull out of it and not sign the Memorandum of Understanding. She handed out the U.S. Dept. of Transportation's response letter to the Advisory Council on Historic Preservation regarding their letter on the Section 106 consultation asking for additional explanations on some issues.

D & H Transportation Heritage Council Update: Ramie reported she attended the D & H meeting that included a tour of the Lock House in Kimballs. The business meeting was in the afternoon and they also toured the silk mill renovation project in Hawley. The group is looking to expand its membership and start a Friends group. Their next meeting is Jan. 19.

New Business

FERC Nov. 12 Order Approving Transfer of Licenses (Alliance Energy): The committee was provided with a copy of the FERC Order issued Nov. 12 approving the transfer of license for the Mongaup Falls and Rio Projects to the Eagle Creek Companies. The transfer request for the Swinging Bridge Project remains pending before the FERC. Serio noted the members could read the document at their leisure.

Public Comment None

Adjournment A motion by McKay seconded by Rando to adjourn the meeting at 9:18 p.m. was carried.

Carol Coney, Office Manager