

Upper Delaware Council
WATER USE/RESOURCE MANAGEMENT COMM. MEETING MINUTES
April 21, 2009

Committee Members Present: Wieland, Bowers, Serio, Chase, Sundholm, Fluhr, Keesler
Committee Members Absent: McKay, Shafer, Flaherty
NPS Partner: Schultz
Advisory Members: None
Staff: Douglass, Soete, Coney, Ramie
Guests: D. Hamilton, J. Zimmerman, D. & C. Tharp, J. Wo

The committee chairperson Charles Wieland called the meeting to order at 7:09 p.m. A motion by Bowers seconded by Sundholm to approve the March 17 meeting minutes was carried.

Public Comment on the Agenda

Comments by Jeff Zimmerman, Zimmerman & Associates of Potomac, Maryland for the NorDel Conservancy and Friends of the Upper Delaware: Zimmerman gave a brief overview of the issues *NorDel Conservancy* had with possible recommendations of the DRBC's Floodplain Regulations Evaluation Subcommittee. This is a subcommittee of the Flood Advisory Committee tasked with reviewing floodplain regulations in the Basin and providing recommendations for more effective floodplain management relative to reduction in flood losses. Handouts were provided to the WU/RM Committee. NorDel's concerns: ~The Subcommittee may be recommending regulations to be adopted by the DRBC that could override the land use authority of communities throughout Pennsylvania's portion of the basin. ~These regulations will have far reaching social and economic impacts and financial burdens on all communities, but the subcommittee has rejected requests to examine these issues before making recommendations. ~Any effective floodplain management program must consider both economic and social impacts in addition to environmental matters.

Preliminary draft recommendations of the subcommittee (in brief) mention: Raising the ground and/or placing structures in floodways is prohibited. Incentives are given to existing floodway residents to make improvements to structures to reduce flood damage potential, and to relocate homes and businesses outside the floodway, where possible. New bridges are designed to ensure that existing flooding is not exacerbated. Mandating forested buffers along all natural water courses ensures a vegetated buffer that is able to provide all of the quantity, quality, erosion and ecosystem benefits that are helpful in protecting streams and communities from the adverse impacts of floods. The desirable width of a riparian buffer varies according to the purpose of the buffer (water quality, bank stability, aquatic habitat, terrestrial habitat, etc.), and the characteristics of the stream and the riparian area. Several formulas exist to determine buffer width based on site characteristics. States should seek to enhance existing programs that encourage voluntary preservation/creation of riparian buffers, and create new ones. Coordinate any riparian buffer programs and regulations with others in the basin, to avoid redundancy and use resources efficiently. Many designers advocate a 3-zone approach, in which the zone closest to the river is undisturbed forest, the next closest is managed forest, and the furthest zone from the channel is maintained as meadow or prairie type of landscape. The other two zones should be managed (within a set of criteria) at the landowner's discretion. Freeboard is a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of a watershed. Freeboard is not required by minimum National Flood Insurance Program standards. The regulations currently in place for addressing development in the floodplain have not successfully reduced flood damages. States should create and implement programs to remove highly vulnerable public works structures from the floodplain with a special emphasis on waste water treatment plants which are routinely overwhelmed by floodwaters and discharge untreated or partially treated sewage into receiving streams and rivers.

Zimmerman announced that the *Friends of the Upper Delaware* (FUDR) will host the 2nd Annual "One Bug" Fly-Fishing fundraiser in Hancock. The event will be held April 24. This fundraiser will assist stream restoration projects to reduce or eliminate flooding on two important creeks in the Town of Hancock. FUDR is partnered with the Town and Delaware County in these efforts. Zimmerman explained

that it was very important to have enough water in the tributaries and main stem Delaware to stimulate the fish and generate the bug hatches as well as float the fishing boats for this fundraising effort.

Following discussion, a motion by Fluhr seconded by Keesler to support the 600 cfs release this weekend for the event, following a letter from the Town of Hancock requesting such support, was carried.

New York Regional Interconnect proposed transmission line, update on activities:

◆NYRI: Officially withdrew its application on April 3, 2009 filed under Article VII of the Public Service Law for the proposed transmission line under Case No. 06-T-0650. A packet of information was provided to the WU/RM Committee relative to this: ~NYRI official letters of withdrawal. ~Website "Letter from Chris Thompson, President of NYRI" offering remarks on the withdrawal. ~A letter from Congressman Henry Waxman to FERC informing them that back-stop authority on this application would raise serious concerns at this late juncture and that Section 1221 of the Energy Policy Act was a controversial provision and it would be counterproductive for FERC to assert greater authority in this area than Congress intended to convey. ~FERC's reply to Waxman indicating that no entity has made a filing before FERC suggesting that NYRI project currently falls within FERC jurisdiction; NYRI withdrew its application to the NYS PSC before that agency acted on it, and the withdrawal occurred within a year of a complete application being filed with NYS. Given these facts, it would not appear that the NYS PSC withheld or conditioned approval in such a way as to preclude a significant reduction of transmission congestion or to make the project economically infeasible. In these circumstances FERC is not aware of a basis for FERC to exercise jurisdiction over the NYRI project. ~Congressman Hinchey's news release and letter to FERC urging the agency to reconsider and withdraw its recent petition to reverse a decision by the Fourth Circuit Court of Appeals that directly impacts FERC's ability to override states in permitting electricity transmission lines. The Court ruled that FERC had overextended its jurisdiction regarding siting power lines over the objections of states in areas designated as National Interest Electric Transmission Corridors (NIETCs). ~NYS Public Service Commission news release "Commission Officially Dismisses NYRI"; including NYS PSC official letter to NYRI on the matter.

◆CARI: Is seeking funds from its members to finalize legal expenses in the efforts to make a case against NYRI locating its transmission line on the routes proposed in its application to the State.

Natural Gas Drilling/Exploration Update: The WU/RM Committee was provided with a packet of information relative to the gas drilling/exploration activities in the region. This included: Delaware River Basin Commission Notice of Applications Received listing for---~Chesapeake Appalachia for a surface withdrawal project to supply a maximum of 29.999 mg/30 days of water for the applicant's exploration and development of natural gas wells, amended its application to change the site of withdrawal to approximately six miles downstream of Peas Eddy, East Branch Delaware. ~Stone Energy Corp. for surface water withdrawal from a point located on the West Branch Lackawaxen River in Mount Pleasant Township, Wayne County, PA. The water will be used to support natural gas well stimulation activities in an existing well located in Wayne County, PA. The proposed drilling sites and surface water withdrawal are located within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

~Community Board No. 2 Manhattan approved resolution calling on the NYS Legislature, the NYS DEC, and NYS Governor to prohibit drilling for natural gas within New York State.

~Community Board No. 7 Manhattan approved resolution banning natural gas drilling in New York City's upstate watershed and elsewhere in NYS. ~The *Daily Review* news article "Counties oppose PA DEP elimination of permits issued by local conservation districts." These counties included Wayne and Pike in the Upper Delaware River corridor.

Old Business

Upper Delaware Scenic Byway Update: Ramie reported on Byway activities: NYS DOT Region 9 will be working on removal of hazardous trees and will work with the Byway consultant on opening Byway scenic vistas. Digital map project-Fountain Spatial of Schenectady was awarded this project and the project should be completed by June 1. The National Park Service-Upper Delaware gave a presentation on its Mongaup Visitors Center project as requested for purposes of possibly receiving a grant from the Byway. The Byway group's annual meeting and election of officers will be held April 27. A support letter for NYS's Better Bottle Bill was issued to NYS Legislature Byway district members. Sullivan County

Planning gave a presentation to the Byway regarding the Local Waterfront Revitalization Program grant they received. A quantity of new Byway brochures will be delivered to the UDC office for distribution. The May meeting was rescheduled to June 1 and the June meeting rescheduled to June 29.

Delaware River Sojourn Update: Ramie reported there will be discounted Early Bird Registrations for the Delaware River Sojourn. POWR provided the Sojourn event with a grant. The Sojourn will be in the Upper Delaware June 21 and June 22. Congressman Chris Carney has been invited to participate. The next meeting of the Sojourn Steering Committee will be May 4 in Bethlehem, PA.

Pond Eddy Bridge Update: PennDOT held two meetings regarding the Pond Eddy Bridge replacement project. Ramie attended the meeting on April 2. It involved all the subcontractors that provided updates on the project history and scope of work. Because there is local resident opposition to taking the bridge down, this has delayed the project for a number of years. There is a delay now at the NYS historical commission. Until they sign-off on the project, PennDOT cannot start the design phase of the bridge project. The Design Advisory Committee should start meeting this summer. The date of 2013 is still listed as the contract let date. PennDOT will keep inspecting the Bridge due to its deteriorating condition. Fluhr commented the cost to replace the Bridge has doubled over the past six years and it will be borne by NYS and PA residents.

New Business

Delaware River steam gauges funding: The committee was provided with articles from the *Times Herald-Record* of April 9 and 14. It was reported that the steam gauge on the Delaware River between Port Jervis and Matamoras has been saved from disconnection along with at least seven other gauges. The stream gauges, important tools in predicting local floods, were slated to be disconnected by the NYC DEP because of funding shortfalls. Meetings of multiple government agencies produced a plan to save at least eight of the roughly 50 stream gauges slated to be disconnected. They're working on keeping the Callicoon gauge operating as well.

U.S. Senator Schumer seeks to curb didymo from spreading: The committee was provided with an article from the *Times Herald-Record* of April 9. The article states "an invasive algae known as didymo (*Didymosphenia geminata*) has made its ferocious debut in Northeast waters, prompting Sen. Chuck Schumer (D-NY) to call for quadruple the federal funding to combat invasive species. The algae grow thick mats on the bottom of flowing and still waters and chokes bottom-dwelling organisms that trout and other fish feed on." If the didymo wins the battle, NYS stands to lose more than \$754 million in recreational fishing revenue and nearly 7,000 jobs.

NPS-Upper Delaware Safety Committee Meeting April 29: It was announced that the Upper Delaware River Safety Committee will hold its annual meeting on April 29 at the NPS Headquarters. The boating liveries and other stakeholders will attend. Douglass said UDC will attend as well. The agenda will cover safety issues. Schultz noted that the National Canoe Safety Patrol will be holding its annual training on the Upper Delaware shortly.

NPS Report: Schultz reported to the committee that the NPS will be posting signs and installing speed bumps at the Roebling Bridge next week. A study revealed that speeding on the structure is increasing even though a speed limit of 15 mph is posted. Given the safety issues, especially with the school children tours, the speed bumps will be installed on NPS property at the approaches to the Bridge.

Next DRBC meeting: Douglass announced that the next meeting of the Delaware River Basin Commission will be May 6, with an informal conference at 10:30 a.m. followed by the business meeting at 1:30 p.m. The meeting is held at the DRBC office in West Trenton, NJ and is open to the public.

Public Comment None

Adjourn A motion by Fluhr seconded by Bowers to adjourn the meeting at 8:58 p.m. was carried.

Carol Coney, Office Manager