

## UPPER DELAWARE COUNCIL MEETING MINUTES Oct. 1, 2009

The Upper Delaware Council held its monthly meeting Thursday, Oct. 1, 2009 at the Council office on Bridge Street in Narrowsburg, NY starting at 7:32 p.m. A motion by Bowers seconded by Sundholm to approve the Sept. 3 meeting minutes was carried. 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 Tusten-Charles Wieland, Berlin Township-Lillian Russell, Town of Highland-John Sundholm, Town of Lumberland-Joe Carr, Town of Deepark-Phil Chase, Shohola Township-George J. Fluhr, Westfall Township-Alan Bowers, Commonwealth of Pennsylvania-Dennis DeMara, Delaware River Basin Commission-Clarke Rupert, and National Park Service-Vidal Martinez. Members absent: Town of Cocheton, Lackawaxen Township, State of New York.

Committee Reports: The committee reports were provided by the committee chairpersons based on the meeting minutes. They included: Water Use/Resource Management Sept. 15 by Wieland; Operations Sept. 22 by Fluhr; and Project Review Sept. 22 by Roeder.

### Status Reports

**Delaware River Basin Commission:** Clarke Rupert referenced the Delaware River Flow and Storage Data sheet handed out and provided updated information. As of the morning of Oct. 1, the combined storage of the New York City Delaware River Basin reservoirs dropped with Neversink at 84.9%; Pepacton at 87.6%; and Cannonsville at 88.1%. The combined storage was at 87.4%, or 236.76 bg; about a 35 bg void.

The precipitation for year-to-date is about 5 inches above normal, with Delaware and Sullivan Counties above normal (a chart was passed around). The month of September has been dry with Delaware County 1.2 inches below normal and Sullivan County 1.4 inches below. The watershed-north is below normal; and Bucks County and watershed-south have been normal. There were directed releases by the Delaware River Master Sept. 17 to 27 to meet the Montague flow target. There's been precipitation for the last several weeks. For the past seven days, Delaware and Sullivan is 1 inch above normal.

As to the flows, Montague has rebounded. At 2 p.m. today, 2100 cfs was recorded. The median is 1950 and mean is 3170, so we're in-between these figures.

The meeting agenda for the Oct. 22 DRBC meeting will be on the website next week. The advisory committee meetings are also posted on the website. The Water Quality Advisory Committee is meeting Oct. 7; Monitoring Advisory Oct. 14, and Toxics Advisory Oct. 28.

The DRBC staff has been engaged in an ongoing effort for years in the tidal Delaware and Delaware Bay. There is a public meeting in Norristown today and other meeting dates are listed on the website dealing with regulatory changes for PCBs downstream of Trenton.

The Sept. 23 public hearing regarding Chesapeake's surface water withdrawal application to DRBC has been postponed at the request of Chesapeake. The comment deadline will remain open passed Sept. 30. Once a new public hearing date has been established, a new comment deadline will be noted.

Peckham mentioned that Stone Energy has two applications with DRBC. Rupert responded Stone is under review. Their applications involve water withdrawal and production of well. Neither application has reached the point of a public hearing. Currently DRBC has four applications pending: 2 Stone; 1 Chesapeake surface water withdrawal; and 1 Arbor in Bucks County. The Commission is not considering the Chesapeake Docket at its Oct. 22 meeting. Peckham asked if DRBC has reviewed the NYS DEC's draft supplemental GEIS regarding gas regs. Rupert noted that staff is reviewing now. In response to a question, Rupert explained that the DRBC staff's revised Chesapeake Docket for the West Branch

Delaware surface water withdrawal increased the pass-by flow from 48 cfs to 235 cfs. This was based on comment from the Pennsylvania Fish & Boat Commission among others. It's based on 25% of the average daily flow.

Rupert also provided to the Council the Commission's "2008 Annual Report". It can be viewed online to save paper. The DRBC's website can be accessed at [www.drbc.net](http://www.drbc.net)

Rupert explained that over the years the UDC was supportive of the DRBC's Water Snapshot program held around Earth Day. DRBC had to suspend this program a couple of years ago due to funding and staff constraints. However, NPS-Upper Delaware has continued to do this work and has involved several area schools in the process under the tutelage of Jamie Myers. The children's snapshot report for 2009 is excellent and is posted on the DRBC's "Ed Web" education page on its website. Rupert thanked NPS for continuing this snapshot program and added that the children do a fine job of it.

**NYS Dept. of Environmental Conservation:** No one could attend from the DEC but handouts were provided. The members were provided with three news releases. The first involved announcement of the availability for public review and comment of the newly produced draft Supplemental Generic Environmental Impact Statement governing potential natural gas drilling activities in the Marcellus Shale formation in New York State. The SGEIS supplements the existing GEIS and analyzes the range of potential impacts of shale gas development using horizontal drilling and high-volume hydraulic fracturing. The draft SGEIS outlines safety measures, protection standards and mitigation strategies that operators would have to follow to obtain permits. The 809-page SGEIS is available on the DEC website, [www.dec.ny.gov](http://www.dec.ny.gov), link to the press releases section and further links are included within the news release. The comment deadline is Nov. 30, 2009. In addition, DEC will announce soon times and locations for a series of public information sessions.

The second news release announced proposed changes to the current freshwater fishing regulations to better enhance fishing opportunities and protect the State's freshwater fisheries resources. DEC will be accepting public comments on the proposals until Nov. 2, 2009. The full text of the proposed regulation changes is available on DEC's website. Final regulations following public comment review will go into effect Oct. 1, 2010.

The third news release announced that beginning on Sept. 25, recreational marine fishing licenses will be available for sale. Beginning Oct. 1, persons 16 years of age and older need to acquire a recreational marine fishing license if they are fishing in the Marine and Coastal District or fishing any water (including the Delaware River) where the angler is fishing for "migratory fish from the sea". All revenues generated from sales of these licenses will be deposited into the Marine Account for future care, management, protection and enlargement of marine fish and shellfish resources. The licenses can be purchased via the DEC website, ordered by mail or telephone; or by visiting any one of DEC's 1500 license sales outlets statewide.

**PA Dept. of Conservation and Natural Resources:** Dennis DeMara handed around information about the PA Outdoor Recreation Plan website. The Plan is prepared periodically by the Commonwealth of Pennsylvania to provide statewide policy direction and to fulfill the agency's recreation and preservation mandate. The plan will serve as a status report and as an overall guideline for recreation resource preservation, planning, and development through the year 2013. To view a copy of the report, go to [www.paoutdoorrecplan.com](http://www.paoutdoorrecplan.com).

DeMara also provided information regarding a new website for PA Trails, [www.explorepatrails.com](http://www.explorepatrails.com). The Department is and has been working the past year to connect all PA trails in the system and provide hiking and biking information on one site. There is also a "featured" trail on the site changed periodically.

Pike County and the DCNR officially opened the newest addition to the Delaware State Forest system in the form of a 708-acre tract of land in Westfall Township recently purchased from the Polatnick family. The property is located within a Conservation Opportunity Area characterized in the county's Open Space Plan as the Millrift Highlands.

There will be a kick-off meeting Oct. 15 for the Thornhurst Township Lackawanna County stakeholders meeting relative to its Landscape Initiative. There's also a mini-grant program with funds from \$3,000 to \$25,000 to advance Landscape Initiatives. Information is on the DCNR website, [www.dcnr.state.pa.us](http://www.dcnr.state.pa.us).

DeMara noted that the Department is waiting for the state budget to pass before it can announce grant funding under its April grant round. There may be fewer funds available this year.

*PA Dept. of Environmental Protection:* Douglass referenced a handout provided to the members that was a Sept. 25 news release from PA DEP announcing that DEP had ordered Cabot Oil and Gas Corp. to cease all natural gas well hydro fracking operations in Susquehanna County until the company completes a number of important engineering and safety tasks. The company has seen three separate spills in less than one week in Dimock Township.

**National Park Service-Upper Delaware:** Vidal Martinez announced again his last day as Superintendent of the NPS-Upper Delaware would be Oct. 23. The Council members were invited to a farewell event on Oct. 23.

Martinez reported that the work at the Roebling Bridge is being finished. He provided an overview of the project and offered thanks to Carla Hahn of his staff for her work on this project.

The Zane Grey Museum closed Oct. 19 to prepare for the new exhibit project. There will be a grand re-opening next spring.

NPS is working with NYS DEC on the Mongaup Visitors Center to develop an agreement to manage the temporary site.

On Sept. 2 NPS and PA DEP met to talk and take a look at how gas leases will impact parks in Pennsylvania. They exchanged ideas and management techniques. DEP wants to utilize GIS maps and they're talking about notifying NPS about applications for gas drilling permits.

Regarding the NPS mandatory life jacket discussion previously, Martinez noted that at the last meeting the UDC resolution eliminated the six foot river height at Barryville for use as criteria and approved "under dangerous conditions" which gave NPS some latitude. He noted his staff analyzed the UDC concerns, difference of river conditions in the northern and southern sections of the river corridor, and concluded that even though enforcement is easier with one zone, they would consider a two-zone area – Callicoon gauge at 6 feet covering Callicoon and north; Barryville gauge at 6 feet covering Callicoon Bridge and South. A river user notification system will be developed.

Martinez offered a few remarks before he leaves the area on Oct. 23. He offered deepest gratitude to the Upper Delaware Council and its staff for their assistance and cooperative working relationship during his tenure in the Upper Delaware. He commented that there should be more marketing of the role UDC and NPS play in the River corridor as partners and what tasks they are mandated to do. The *River Management Plan* still needs to be revisited to address resources issues that may be impacted by new challenges and opportunities.

**UDC Executive Director's Report:** Bill Douglass noted that the UDC's 2009 Technical Assistance Grants Program grantee contracts are being prepared and the UDC Chairperson will sign them prior to mailing. Eight towns/townships received funding totaling \$16,700. The Upper Delaware River Roundtable sponsored a workshop on the NYS SEQRA held at the UDC office. Kate Sinding, a senior attorney at the Natural Resources Defense Council, was the workshop speaker. UDC staff participated in the workshop.

### Old Business

**UDC Resolution 2009-10 Amending Article XI-Committees of the UDC Bylaws:** As carried over from the last UDC meeting, the UDC members discussed in committee and forwarded to the full Council for action a proposed Bylaws amendment that would allow for chairpersons from any of the regular standing committees with a supporting vote of the majority members from said committees to transmit "time sensitive" opinions in writing either electronically or via the mail with it noted that such a response represents the opinion of the corresponding committee. This amendment would become part of the UDC's Bylaws adopted Feb. 6, 1992 by adding a Section 2 under Article XI-Committees.

There have been instances when the Council needed to meet a comment deadline prior to the full Council meeting, and the procedures to call a special Council meeting was not viable based on time constraints, in which case the Project Review Committee usually transmitted a committee comment to meet a deadline and informed the full Council of this action. This Bylaws amendment formalizes the procedure and extends the capability to other committees as necessary. While most all business goes through the full Council, there needed to be a mechanism in place to allow for timely public comment from the Council on

issues of importance. Since most members of the full Council also sit on various committees, there would be transparency regarding this issue. The concern here is meeting a deadline as opposed to sending nothing. A motion by Wieland seconded by Bowers to approve the resolution was carried with 1 opposed and 1 abstention.

**NYC application to FERC hydroelectric generation NYC reservoirs:** Chase noted in 1991 Orange and Rockland Utilities had to get licensed to produce electricity at the Mongaup System with three hydro plants there. FERC was involved and we were able to get recreation releases and also a 100 cfs habitat release. UDC staff and Chase attended the PPL meetings for four years on its FERC re-licensing procedure. FERC was involved and we got recreation and better habitat releases. Chase said he asked FERC why when New York City built reservoirs at our headwaters in the 1950s FERC was not involved but it came out that it involved an aqueduct tunnel so FERC was not involved. Now the City is applying to FERC for hydroelectric generation at its Delaware River Basin three reservoirs and is trying to evade full public involvement so the City doesn't have to run the generators for the good of the rivers. As reported in the media, Sullivan County officials have asked FERC to use the more open "integrated" application process, rather than the City requested "traditional" process so there would be more open interaction between the license applicant and stakeholders as it applied to the Neversink Reservoir. Chase said he hoped that UDC could get information on this procedure and that UDC would have the opportunity to offer comment to FERC about recreation issues. Bowers said we first need to find out about the status of this project. He didn't feel the City was really interested in doing this project. Peckham noted that Delaware County Electric Cooperative suggested doing this project first. Fluhr asked if the members wanted to take action on this issue and the consensus was to go through the Water Use/Resource Management Committee first. Chase agreed. The issue was referred to committee.

#### **New Business**

**NYS DEC draft SGEIS:** Peckham noted that UDC needs to provide a comment letter to NYS DEC regarding its gas drilling draft Supplemental Generic Environmental Impact Statement recently released with a comment deadline of Nov. 30, 2009. He felt the Council's committees should be discussing this at the October meetings. Soete noted a staff letter had been issued to NYS DEC on its draft scoping document relative to the SGIES. Martinez mentioned that at the SEQRA workshop today, Sinding mentioned that comments should focus on significant issues. Fluhr signaled he'd like to see a draft comment letter come before the Council at its November meeting.

**Public Comment** None

**Adjournment** A motion by Bowers seconded by Niflot to adjourn the meeting at 9 p.m. was carried.

Carol Coney, Office Manager