UPPER DELAWARE COUNCIL MEETING MINUTES
Jan. 7, 2010
(Annual Meeting)

The Upper Delaware Council held its monthly meeting on Thursday, Jan. 7, 2010 at the Council office on Bridge Street in Narrowsburg, NY. Chairperson Fluhr called the meeting to order at 7:30 p.m. A motion by Shafer seconded by Niflot to approve the Dec. 3 meeting minutes was carried. There was no public comment on the agenda.

Election of Officers for 2010: Richardson reviewed the slate of officers for 2010 presented at the December Council meeting. For Chairperson Harold Roeder Jr. (Town of Delaware); Vice Chairperson-Dolores Keesler (Damascus Township); and Secretary/Treasurer Jack Niflot (Town of Fremont). A motion by Boyar seconded by Richardson to cast one ballot for the slate was carried unanimously. Officers were sworn in by Justice H. John Kramer from the Town of Delaware. The "passing of the gavel" from outgoing chairperson George J. Fluhr to incoming chairperson Harold Roeder Jr. took place with both men offering words of thanks. Roeder conducted the remainder of the meeting.

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, Town of Highland-Andy Boyar, Town of Lumberland-Jay Shafer, Town of Deerpark-Phil Chase, Shohola Township-George J. Fluhr, State of New York-Bill Rudge, Commonwealth of Pennsylvania-Dennis DeMara, Delaware River Basin Commission-Carol Collier, and National Park Service-Sandra Schultz. Also in attendance: Mel Decker, Alternate from Town of Deerpark; Jim Serio, Alternate from the Town of Hancock; John C. Sundholm, Alternate from the Town of Highland; Jim Rodgers, Alternate from the Town of Fremont. Members absent: Berlin Township; Lackawaxen Township; Westfall Township.

Committee Reports: The committee reports were provided based on the meeting minutes. These included: Water Use/Resource Management meeting of Dec. 15 by Douglass; Operations meeting Dec. 15 by Fluhr; and Project Review meeting Dec. 15 by Roeder.

Status Reports

Delaware River Basin Commission (DRBC): Carol Collier, Exec. Dir. DRBC, referenced the flow and storage data charts handed out and noted that the New York City Delaware River Basin reservoirs were at 90% of capacity, or 2.5 bg below one year ago at this time. The NYC DEP snowpack survey was just issued and its indicating there's 7.1 bg less water equivalent than reported previously. NYC has been in high release mode. They base their releases on snowpack.

The recommendations of the Interstate Flood Mitigation Task Force for Floodplain Management are listed on the DRBC web site (www.drbc.net). The Flood Analysis Model's (rolled out at Dec. 15 meeting of task force) purpose was to develop a tool to assess flooding impacts in the basin from reservoir operations and future development and to evaluate the effects of different pre-event voids in the 13 existing reservoirs on flooding for the three storm events in 2004, 2005, and 2006. Collier noted that even if the reservoirs were empty there still would have been flooding. The 2006 storm showed the greatest impact with reservoir storage. The project basins included the Delaware River to Trenton; Non-Tidal Brandywine/Christina; and Schuylkill River to Philadelphia. The Reservoir Operations Simulations included: *Groupings* – NYC: Cannonsville, Pepacton, Neversink; Power/Recreation – Lake Wallenpaupack, Mongaup, Nockamixon; *USACOE* – Flood risk management reservoirs (voids not evaluated because they did not spill for the three events). Also included were *Pre-event Conditions* –

Existing (all reservoirs as they were); No Reservoirs (all reservoirs removed from model); Full Reservoirs (NYC only); 10 Percent Voids (NYC only); 20 Percent Voids (NYC only, Power/Recreation only); and 100 Percent Voids (empty reservoirs/no spill: NYC only).

With 20 percent voids, NYC reservoirs only: Impact varies depending on location; largest reductions below reservoirs; reductions depend upon storm characteristics and location. Power/Recreation: up to 0.5 foot reduction in stage at Montague; up to 0.2 foot reduction in stage at Trenton.

Other tools used to assess impacts included the U.S. Army Corps of Engineers/National Weather Service inundation mapping; USACOE surveys of structures in the floodplain located in high damage areas; USACOE stage-damage relationships; and water supply planning model (OASIS).

The review of findings showed: Pervasive flooding would still have occurred regardless of the storage condition in the reservoirs before the events; reservoirs did not cause the flooding; Alternate reservoir operations could potentially reduce flood crests but amount depends upon storm, proximity and topography; Dedicated, year-round voids in NYC reservoirs cannot be maintained; and Creating dedicated, year-round voids increases drought risk. No one set of measures will eliminate flooding along the Delaware River, rather the Task Force Members recommended a combination of measures to improve the basin's resiliency—its capacity to prepare for and recover from flooding in the future. It was noted that approximately 13,150 persons live in the 100-year floodplain of the main stem Delaware River between Hancock, NY and Trenton, NJ.

Some of the next steps to consider included: Continue to pursue spill mitigation; flood warning system upgrade; education and outreach; strengthen floodplain management; create riparian corridor integrity trust fund; develop a stormwater retrofit program similar to the Catskill Watershed Corporation; continue to explore additional storage for multiple purposes. Peckham commented that even a three or four foot flood crest difference could mean there would be flooding in your basement or not.

Collier continued that as to the gas drilling, the DRBC has four applications in-house: Stone Energy-existing natural gas well drilling pad and vertical well known as Matoushek; Stone Energy-surface water withdrawal West Branch Lackawaxen River; Arbor Operating-ground water withdrawal Cabot #2 exploratory well and well pad; and the fourth is a water withdrawal between Philadelphia and Wilmington with wastewater trucking to facility for treatment. Chesapeake has withdrawn its application for water withdrawal on the West Branch Delaware.

Collier reported that DRBC is working on drafting regulations for gas drilling to have in place as mentioned in her Executive Order for the Basin. Susquehanna River Basin Commission is using a permit by rule process which can be faster. The DRBC is looking at a faster application track but as a trade-off they will have the gas companies meet certain environmental conditions. They'll be looking at water withdrawal applications; approval of wells; and wastewater disposal.

Collier announced that the Common Waters Partnership applied for a grant to the US Endowment for Forestry and Communities for a Healthy Forests, Healthy Waters Program and was awarded $1 million over a three-year period. The Program will provide forest landowners with incentives to sustainably manage and conserve forests in order to protect sources of high-quality drinking water; provide an educational program for local governments and general public on the connections between forests and faucets; and accelerate sustainable forest management in the region. DRBC is partnering with the group to facilitate participation of water users in the lower basin.

Chase commented to Collier that he felt a void in the reservoirs would have helped. NYC does not use the amount of water it could for drinking water supply and therefore the leeway to release water for a void in certain circumstances is there. The goal of NYC to have full reservoirs by June 1 is usually met. Right now the reservoirs are close to spilling and our reservoirs could come down because of that. He expressed he didn't understand why it was so tough to get NYC to lower its reservoirs. Basically, NYC is in charge of our watershed but DRBC should be. It only takes one negative vote on motions to kill projects. Someday we'll go back to the 1954 Supreme Court Decree and bring it up to date.

NYS Dept. of Environmental Conservation (NYS DEC): Bill Rudge, Natural Resources Supervisor, reported that the comment period for the natural gas draft Supplemental Generic Environmental Impact Statement (dSGEIS) closed on Dec. 31, 2009. As of Jan. 4, DEC has received 12,576 written opinions (comments) about the draft document. The opinions covered items such as drilling, cumulative impacts, impacts on water, and treating wastewater. The DEC is currently reviewing the comments.

Rudge provided an update on the comments received for the proposed changes in shad regulations stating that the comment period closed Jan. 4, 2010 and four comments were received, but none pertained

to the Delaware River proposed catch change of 3 shad per day down from 6. People do understand the need for the changes based on the reduction in shad populations. The new regulations will be finalized by DEC in early March.

Rudge referenced the DEC news release handed out. DEC has revised regulations to extend the time period for anglers to legally possess and use certified bait fish from 7 to 10 days after purchase, and also allow the use of some bait fish in certain Western New York waters that had previously been prohibited. The new rules became effective Jan. 6, 2010.

Soete asked Rudge if the DEC will post the dSGEIS comments online and Rudge indicated it would not given the size of the file that would need to be created. Soete asked what the time frame was for a result on the dSGEIS, and Rudge responded there is no time frame as the department wants to go through all the comments that it received. Peckham asked Rudge who determines to accept or reject the dSGEIS and Rudge noted the NYS DEC.

PA Dept. of Conservation and Natural Resources (PA DCNR): Dennis DeMara, Natural Resource Program Supervisor, referenced a DCNR news release handed out. He was happy to announce that the Commonwealth of Pennsylvania's 2010 "River of the Year" was northeastern PA's Lackawaxen River. The Lackawaxen River is a tributary of the Delaware River. The Lac is steeped in a wealth of natural bounties and historical significance shaping northeast PA's ecology and communities for centuries. A recreational treasure renowned for its fly-fishing and canoeing, the Lackawaxen harbors a wealth of bird and animal species. The waterway also drains the forests of the Pocono Plateau, a largely rural and conservation-minded landscape where communities live closely connected to their environment. A mecca for birders hoping to glimpse abundant bald eagles, and trout fishermen drawn to its clean, cold waters, the Lackawaxen flows nearly 25 miles through three counties before joining the Delaware River at Lackawaxen, Pike County. It is where the late American author Zane Grey lived with his family in the early 1900s. The Delaware & Hudson Canal runs parallel to sections of the lower Lackawaxen, and Wallenpaupack Creek and the Lake Wallenpaupack Reservoir drain into the river near Hawley. The Lackawaxen River watershed encompasses 600 square miles across 29 municipalities in three fast-growing northeastern PA counties—Pike, Lackawanna and Wayne. The Lackawaxen River Conservancy and its partners will organize several events throughout the year to celebrate, including a first-ever River Sojourn being planned for June. For more information visit www.lackawaxenriver.org.

DeMara handed out information that announced an open grant application period from Jan. 6 to April 21, 2010 for Community Conservation Partnerships Program Grants. Grant funding from DCNR assists hundreds of communities and organizations across PA to plan, acquire and develop recreation and park facilities, trails and conserve open space. All applications must be submitted electronically. DCNR has scheduled seven workshops throughout the Commonwealth during February regarding applying for grants during this grant round. For more information on the workshops go to www.dcnr.state.pa.us/brc/grants/.

DeMara noted that every five years states across the nation are required to produce a State Comprehensive Outdoor Recreation Plan (SCORP) to remain eligible to receive federal Land and Water Conservation Funds (LWCF). The DCNR has produced "Pennsylvania Outdoors", its 2009-2013 SCORP. He provided Council members with the booklet. For further information go to www.paoutdoorrecplan.com.

He also provided the Council with the booklet, "Managing Natural Resources – A Guide for Municipal Commissions". This guide was produced by the Pennsylvania State University's School of Forest Resources with support from DCNR Bureau of Forestry and others. It covers planning and managing the green infrastructure of street trees, parks, and open space in the context of sustainable community development. The publication is available from the University, Code# UH189.

DeMara passed around the just completed Shohola-Lackawaxen Greenway, Recreation and Open Space Plan that received funding through DCNR. He noted the department encourages multi-municipal plans. This completed Plan will now pave the way for future projects funding requests.

National Park Service-Upper Delaware (NPS): Sandy Schultz, Acting Superintendent, called attention to a handout provided to the Council members. It was copy of a comment letter issued to the NYS DEC regarding the dSGEIS. The letter was issued from the NPS Northeast Regional Office in Philadelphia, PA over the signature of the Associate Regional Director of Natural Resources and Science for the Northeast Region. The comments focused on two areas: potential environmental impacts associated with the newer

methodologies practiced by the industry today, particularly horizontal drilling and the larger amounts of water used in high volume hydraulic fracturing, in excess of quantities described in the previous GEIS; and they examine the implication of development that may occur in new, environmentally sensitive areas, including Federally designated units of the National Park System and related areas. Some topics of comment included—site-specific State Environmental Quality Review Act (SEQRA) Determinations on projects within 2,000 feet of NPS units and related areas; cumulative review of surface disturbance impacts; cumulative review of use and management of hydraulic fracturing fluids; cumulative review of truck traffic on transportation infrastructure and contamination; and cumulative reporting of chemical additives.

Also provided to the Council members was copy of NPS news release announcing the selection of Sean McGuinness to take the position of NPS-Upper Delaware Superintendent filling the vacancy left when Vidal Martinez left the area. McGuinness, currently deputy superintendent at Fire Island National Seashore on Long Island, NY, will assume his post in February, 2010. A native New Yorker, McGuinness was born in Buffalo and grew up in Lake View, NY. It is anticipated that the new Superintendent will attend the Council's meeting on Feb. 4. Schultz noted that McGuinness has experience is dealing with community partners and should be a plus for the area. Roeder noted that the Council was looking forward to working with him.

Upper Delaware Council (UDC) Executive Director: Bill Douglass noted there was nothing new to report at this time.

Old Business None

New Business

UDC Resolution 2010-01, corporate bank accounts: The members reviewed resolution 2010-01 authorizing officers and executive director to sign the corporate resolutions and signature cards for the Council's accounts in various financial institutions. This is standard procedure with a change of officers. A motion by Fluhr seconded by Rudge to approve the resolution was carried.

UDC Comment Letter to FERC-NYC West of Hudson Hydroelectric Project: The members reviewed a draft comment letter to FERC forwarded from the Water Use/Resource Management Committee. The letter stated in part: "…on Aug. 13, 2009 the City of New York made a request to the Federal Energy Regulatory Commission (FERC) for a waiver permitting it to use the Traditional Process in favor of the Integrated Licensing Process in its pursuit of a license for the west of Hudson hydroelectric project. Because of the level of controversy surrounding the project and the complexity of the resource issues, we respectfully request that the Commission deny the City's request. Instead, we recommend that FERC require that the ILP be followed to ensure that participation in the licensing proceeding will have a full and meaningful opportunity to provide comments. We are also concerned about flooding issues. The ILP will allow a broad range of operational alternatives to be considered in terms of power generation and potential environmental impacts." A motion by Shafer seconded by Peckham to approve the letter was carried. Boyar requested and Roeder agreed that if at all possible, staff should send the draft letters for review to Council members prior to the meetings.

***Energy In Depth* Dec. 18, 2009 article, gas issues:** Peckham noted that he had requested copy of an *Energy In Depth* article be handed out to the members. The article rebuts a study done by Walter Hang, president of the Ithaca, NY-based Toxics Targeting, Inc. Hang's study indicated there were 270 oil and gas spills in New York over the past 30 years. Energy In Depth submitted its figures to rebut, indicating that the process of exploring for, and eventually producing, oil and natural gas in New York over the past three decades is responsible for one-forty-thousandth of one percent of the total spillage recorded over that time.

NYC DEP News Release Dec. 23, 2009, calling for prohibition on drilling in the NYC watershed: Council members were provided with copy of a news release issued by the NYC Dept. of Environmental Protection. The news release indicated in part: "Natural gas drilling and exploration are incompatible with the operation of New York City's unfiltered water supply system and pose unacceptable risks for more than nine million New Yorkers in the City and State. Drilling in the watershed requires invasive

industrialization and creates a substantial risk of chemical contamination, and infrastructure damage, according to the "Final Impact Assessment Report" prepared for the New York City DEP. After reviewing the report, DEP has called for a prohibition on any drilling in the New York City watershed, located upstate. The City states in its comments that the dSGEIS does not meet the requirements of the New York State Environmental Conservation Law because it does not include critical and necessary analysis, including: cumulative impacts of the industrialization necessary for drilling, waste disposal, air quality, pipeline construction, and ancillary infrastructure."

Public Comment

~ Barbara Arrindell, Damascus Citizens for Sustainability, read from a letter issued to the NYS DEC containing comments for its dSGEIS on natural gas drilling from the Steward Council of Division 169 of the NYS Public Employees Federation, representing nearly 2,000 professional, scientific and technical staff working at NYS DEC. The letter was requesting an extension of the public comment period for the dSGEIS for at least another 30 days and expressed their judgment that the expansion of gas well hydro-fracturing must not be allowed within the next calendar year, if not longer. The letter enumerated 14 reasons for their request. Items contained in their reasons covered such things as: allowing time to do a complete evaluation and adequate planning; NYS should set the highest possible standards and develop the best possible model for all other states using the best available academic, scientific and engineering research and information; NYS should not finalize any plans to authorize expansion of drilling opportunities in the Marcellus Shale until after the U.S. EPA finishes the recent Congressional legislative mandate to re-evaluate the safety and environmental implications of extracting natural gas using new technology and methodology; that staffing and funding resources needed by DEC and other state agencies for oversight have been identified and planned for; the need for evaluation of cumulative environmental impacts; studies for the recapture, treatment and disposal of the backflow water and identified sewage treatment plants to handle contaminated waters; dSGEIS and existing state regulations are not adequate for protecting water resources from the huge amounts of water withdrawals necessary for hydro-fracking; the dSGEIS fails to fully assess the substantial negative impacts to air quality, traffic and noise associated with widespread industrial gas drilling; the dSGEIS ignores any discussion of the significant industrialization of rural and semi-rural areas; the dGEIS does not include any mechanism to declare hydro-fracking unfit for an area because of ecological sensitivity or community importance; and there has not been any cost benefit analysis performed, nor planned, to develop a full accounting of actual costs and opportunity costs such as the costs of municipal treatment plant upgrades, new road construction, increased road maintenance on existing roads or community emergency response costs. Arrindell requested copies of the letter be given to the Council members.

Executive Session A motion by Boyar seconded by Fluhr to go into executive session at 8:51 p.m. to discuss personnel insurance matters was carried. A motion by Fluhr seconded by Sullivan to come out of executive session at 9:12 p.m. was carried.

Adjournment A motion by Fluhr seconded by Sullivan to adjourn the meeting at 9:17 p.m. was carried.

Carol Coney, Office Manager