

UPPER DELAWARE COUNCIL MEETING MINUTES June 3, 2010

The Upper Delaware Council held its monthly meeting on Thursday, June 3, 2010 at the Council office on Bridge Street in Narrowsburg, NY. Council Chairperson Harold Roeder Jr. called the meeting to order at 7:31 p.m. A motion by Boyar seconded by Peckham to approve the May 6 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 Cocheton-Larry Richardson, Town of Tusten-Sue Sullivan, Berlin Township-Lillian Russell, Town of Highland-Andrew Boyar, Town of Lumberland-Nadia Rajs, Town of Deerpark-Mel Decker, Lackawaxen Township-John McKay, Shohola Township-Scott Rando, Commonwealth of Pennsylvania-Dennis DeMara, Delaware River Basin Commission-Pam Bush, and National Park Service-Sean McGuinness. Also present: Town of Fremont Alternate-Jim Rodgers; Damascus Township First Alternate-Jeff Dexter; Town of Tusten First Alternate-Tony Ritter; Town of Hancock Alternate-Jim Serio. Absent: Westfall Township; State of New York.

Committee Reports: The committee reports were provided based on the meeting minutes. These included May 18 Water Use/Resource Management by Serio; May 25 Operations by Roeder; and May 25 Project Review by Keesler. There was a short discussion if the Council could dispense with the reading of the committee meeting minutes given that all the members receive them prior to the meeting and can read them at will. After discussion, it was determined that those giving the reports would just hit the highlights of the committee meetings. The meeting minutes are posted on the UDC website once they are approved at the following month's meeting, www.upperdelawarecouncil.org.

Status Reports

Delaware River Basin Commission: Pam Bush referenced the Delaware River Flow and Storage Data charts dated May 28, 2010 that were handed out. The New York City Delaware River Basin combined reservoir storage was at 99%. Bush noted that NYC wants to have full reservoirs on June 1 and they met that target.

In a continuing effort to help support the fisheries habitat in the tailwaters downstream of the NYC reservoirs, the Decree Parties (NYS-PA-NJ-Delaware, NYC) announced a temporary agreement to modify reservoir operations from June 1 through August 31 based upon the Flexible Flow Management Program (FFMP). The 2010 summer releases program, which calls for the same releases as last year's temporary program, is designed to benefit conditions for trout in the West Branch-Delaware by increasing cold water releases from NYC's Cannonsville Reservoir over the three-month summer period. The agreement increases the base Cannonsville release by up to 25% to 325 cfs for most of the summer. It also reserves a quantity of water in an "Extraordinary Needs Bank" available for use by the Decree Parties for unforeseen needs. The FFMP and its associated agreements can be accessed at the U.S. Geological Survey Office of the Delaware River Master website, <http://water.usgs.gov/osw/odrm/>. Bush noted that the FFMP expires May 31, 2011 unless it is renewed and currently there is a push now to improve on it.

As to natural gas, the Commissioners directed the DRBC to develop new regulations for gas well pads. Water withdrawals will still be accepted for review. In addition to working on the regulations, they are looking at extending the Executive Director's Determination. They received two appeals on the

decision not to review vertical test well projects. The Commissioners will decide in July whether to grant the appeals which were from Bucks County and Wayne County. The DRBC's July 14 meeting agenda will be posted on the website, www.drbc.net, by the end of June.

Boyar felt that NYC's June 1 date for reservoir refill seemed to be arbitrary. It's right after Memorial Day weekend and that weekend could use more water releases. We start getting thermal spikes around then depending on weather and these spikes affect rainbow trout. Bush said she'd take that message back to the Commissioners. Peckham asked if the 325 cfs tied into the PPL releases through the Lackawaxen. Bush deferred to Serio. He said the 260 cfs is in the FFMP starting June 1. The Decree Parties agreed to 325 cfs regardless of PPL releases. The extra water comes from the excess release quantity bank. Rajsz wondered if that put more water in the River as Boyar was eluding to. Serio said no, but there's only 11 days, May 21 to May 31, before releases go up again June 1. June 1 is not arbitrary as the reservoirs start going down then. Bush noted that the June 1 date is part of many agreements but she still can bring Boyar's concerns to personnel. Rando offered that he was looking at the chart and there's really not much difference in flow before June 1.

NYS Dept. of Environmental Conservation: Bill Rudge could not attend but sent a handout. The DEC put out a notice on frost damage to trees. It indicated that if you live in parts of the Catskills, southern Adirondacks or eastern Finger Lakes, you might be wondering why you're seeing damaged trees in your area. The NYS DEC has received a number of calls recently on this topic. In fact, there has been widespread damage to deciduous trees in certain areas of the state due to freezing temperatures that occurred recently. In some places, brown hillsides are apparent due to the dead, curled up leaves which are falling off impacted trees. In areas previously defoliated by the Forest Tent Caterpillar, this weather related defoliation will cause additional stress and may lead to an increase in tree mortality.

PA Dept. of Conservation and Natural Resources: Dennis DeMara provided the members with the DCNR's "Park & Forest Visitor Welcome Kit" for 2010-2011. The Kit contained information including a map, wildlife material, staff recommendations, and how you can help the PA parks and forests. Further information can be obtained at, www.parkvisitor.com.

DeMara noted that the DCNR received 361 applications for its parks and recreation grants for a total request amount of \$68 million. They are currently reviewing the applications for projects.

June 5 is National Trails Day and DCNR will be out dedicating trails. They'll have a major ceremony at the new trail in Jim Thorpe, PA.

DCNR has announced that grants are available to protect non-game species and preserve Pennsylvania's diverse native wildlife. DCNR is now accepting grant applications to protect the state's non-game animals, native plants and their habitat. While grants vary in amount, the average award size is \$30,000, and the term of the grant is 18 months. Applications are being accepted through June 30, 2010 for work to be performed between January 2011 and June 2012. Applications will only be accepted electronically through DCNR's eGrants online grant application system. To learn more go to, www.dcnr.state.pa.us/wrcp/2010grants/index.aspx.

DeMara reported that PA's Growing Greener program is sun setting in 2011. There is interest in continuing this program as it has transformed PA by empowering communities to protect working farms and special places, clean up rivers and streams, create and improve parks and trails, and revitalize cities and towns. After a decade of success, the funding sources that support Growing Greener are nearly gone. For information about renewing this program go to, www.renewgrowinggreener.org.

National Park Service-Upper Delaware: Sean McGuinness reported that all river accesses are ready for the season. The roof work and other building projects at headquarters are moving very quickly and McGuinness praised the contractor. This work is part of the weatherization stimulus funds NPS received.

A news release handed out indicated the annual Upper Delaware Scenic and Recreational River High School Student River Clean-Up that will take place on June 12, 2010. This year, high school volunteers will clean a six mile stretch between the Ten Mile River Access and the Lackawaxen Access. Space is limited to 20 students. Please call 570-685-4871 for more information and to sign up for this clean-up.

The Zane Grey Festival will be held July 17 from 10 a.m. through the afternoon. Plans are shaping up for a nice event.

NPS has finalized its trash removal and law enforcement contracts with the Town governments. These were approved at the same funding level as last year but McGuinness said he'll be reviewing this program with the Towns regarding future funding levels. He said NPS law enforcement has been called many times for various issues that are land-based other than those that are river related. In actuality, they are there to assist state and local law enforcement if asked and not be the "first called" responders on land, which is not NPS jurisdiction. McGuinness said these "first called" incidents are of a concern to him and while they'll do what they can, they will immediately call-in local and/or state law enforcement to respond to these calls.

McGuinness said he was sad to announce that there was a drowning at the Delaware Water Gap recently of a 35-year old man who tried to swim across the Delaware River. NPS at both the Gap and Upper Delaware have been involved with meetings to see what can be done to reduce and eliminate these drowning incidents. They want people to be safe and so they will be mounting a more aggressive messaging program about wearing PFDs and not trying to swim across the river as you could wind up dead. The visitors to the area are not aware of the strong currents in the river and it doesn't take much to get into trouble.

He didn't want to be the bearer of bad news but he said it looks like the extra \$125,000 in base funding NPS-Upper Delaware had put in for the UDC will most likely not happen next year, or maybe not for several years, as there will probably be a continuing resolution put in place while the fiscal year 2011 appropriations budget for Interior is debated. There is a push now to bring the national deficit down.

UDC Executive Director's Report: Douglass noted that his report topics were already covered in discussion and he did not need to repeat them in his report, so there would be no report at this time.

Old Business None

New Business

UDC Comment Letter to FERC - Alliance Energy Transfer of Licenses: The members received copy of a draft comment letter to FERC regarding Alliance Energy's transfer of licenses prior to the meeting. Rajsz offered that the impact would be mostly on Sullivan County so she asked that be made so with requesting the public hearing in Sullivan County on this process be held first as more significant land was involved in Sullivan County. A motion by Boyar seconded by Rajsz to amend the letter as stated and issue the letter was carried, with one abstention.

The letter stated in part: "The Upper Delaware Council is aware of the Federal Energy Regulatory Commission's May 7, 2010 'Notice of Application to Transfer of Licenses, and Soliciting Comments and Motions to Intervene' for an application filed by AER NY-Gen, LLC (AER) for Hydroelectric Projects...located on the Mongaup River which forms the boundary between the Town of Lumberland, Sullivan County, New York and the Town of Deerpark, Orange County, New York. As stated in the notice, AER petitioned FERC on April 30, 2010 for approval to transfer licenses for the Swinging Bridge Project, Mongaup Falls Project, and Rio Project. We request FERC to extend the public comment period and deadline for motions to intervene from 30 days to 120 days to allow the many public and private stakeholders in this hydroelectric system to fully analyze and respond to this significant FERC license change. Furthermore, we urge FERC to conduct at least one public hearing and informational event in Sullivan County. It is our understanding that the applicant is not currently in full compliance with the requirements of its existing license, and its recent application raises a host of concerns that require further scrutiny, including environmental, recreational, safety, historical, community impact, local tax, and property value issues. We strongly oppose AER's request for expedited review of this application, and we urge FERC to require a comprehensive and public review of the ongoing problems with the operation of this system and the significant public interest concerns raised by AER's recent application. We still support the continuation of the 100 cfs year-round conservation release from the Rio Reservoir into the bypass section of the Mongaup River below it. The entire Mongaup system is one of the most important

wintering grounds for the American Bald Eagle in the eastern United States and should be considered in any management decisions. The new owners should also cooperate with the New York State Department of Environmental Conservation as they continue to develop a Mongaup Valley Wildlife Management Area Unit Management Plan.”

UDC Letter to NPS-Upper Delaware – Continued UDC Support Services to the Upper Delaware Scenic Byway, Inc.: The members reviewed a copy of the draft letter to the NPS-Upper Delaware Superintendent regarding continued UDC support services for the Upper Delaware Scenic Byway, Inc. since under the new contracting rules being enforced by the U.S. Office of Management and Budget, federal dollars cannot be expended on state projects. McGuinness suggested a change in the last paragraph to make it a request to NPS so that they can review the request and make a determination. This task of continued support services from UDC staff and use of UDC facilities for a separate non-profit group, that includes most of the same members as the UDC, has been brought to the UDC’s attention by NPS that this task is potentially up for reconsideration by the NPS for the fiscal year 2011 funding allocation. It was pointed out in the letter some items that the Byway organization has been effective with in helping the UDC to achieve goals set forth in the River Management Plan. A motion by Rajsz seconded by Niflot to approve the letter as amended was carried, with one abstention.

Thermal spikes in River: Boyar continued his remarks from earlier regarding the thermal spikes in the River. He thought there was a formula to link this information so that the formula would be put to use when needed, he now felt the formula to protect the river from these spikes wasn’t being used properly. He asked that the matter be referred to the Council’s Water Use/Resource Management Committee to do a study about the criteria not being met by DEC to flush water for habitat protection. He made a motion to have staff look into thermal stress and coldwater releases and report back to the Council; it was seconded by Rajsz and carried. Boyar felt if we have coldwater to spare, why not be proactive, as being reactive usually is too late to address a problem. The agencies know when high air temps are expected and the coldwater fishery could be impacted. Releases should be tied to water temperatures. Rando said he agreed that water temps should be used. With water temps you can anticipate more. Once the water temp goes up it stays there awhile. Peckham said years ago you could count on River releases automatically.

American Rivers’ designation of the Upper Delaware as its No. 1 Endangered River: Keesler was looking at the news release handed out from American Rivers that designated the Upper Delaware as its number one endangered river in the United States due to impacts that could be associated with hydraulic fracturing and natural gas drilling. There had been a news conference about the designation in Narrowsburg on June 2 with speakers that included Congressman Maurice Hinchey. UDC staff did attend the news conference. Peckham said he felt that American Rivers should be looking at the inadequate flow regime of the River.

Public Comment

~ Jim Serio offered that the flow issues being discussed could be further detailed by reading the draft white paper on coldwater ecosystem protection that the NYS DEC and the PA Fish and Boat Commission presented at the May DRBC’s Regulated Flow Advisory Committee meeting. He said he would email the white paper to the members for review. It will be discussed at the Council’s Water Use/Resource Management Committee meeting.

Adjournment A motion by Rajsz seconded by Boyar to adjourn the meeting at 8:30 p.m. was carried.

Carol Coney, Office Manager