UPPER DELAWARE COUNCIL MEETING MINUTES
Sept. 4, 2008

The Upper Delaware Council held its monthly meeting on Thursday, Sept. 4, 2008 at the Council office on Bridge Street in Narrowsburg, NY. Chairperson Alan Bowers called the meeting to order at 7:40 p.m. A motion by Wieland seconded by McKay to approve the Aug. 7 meeting minutes as well as the Aug. 26 recessed meeting minutes was carried, one abstention. There was no public comment on the agenda.

In attendance: Town of Hancock-Jim Serio, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder Jr., Town of Cochecton-Larry Richardson, Damascus Township-Dolores Keesler, Town of Tusten-Charles Wieland, Town of Highland-John Sundholm, Town of Lumberland-Jay Shafer, Town of Deerpark-Phil Chase, Lackawaxen Township-John McKay, Shohola Township-George J. Fluhr, Westfall Township-Alan Bowers, Delaware River Basin Commission-Clarke Rupert, and National Park Service-Sandra Schultz. Other members in attendance: Damascus Township-Alternate Bob Gross; Town of Hancock-Alternate Fred Peckham. Absent: State of New York; Commonwealth of Pennsylvania.

Committee Reports: The committee chairpersons provided the monthly committee reports based on the meeting minutes. They included: Aug. 19 Water Use/Resource Management by Wieland; Aug. 26 Operations by Bowers; and Aug. 12 & 26 Project Review by Roeder.

Status Reports

Delaware River Basin Commission: Clarke Rupert, Communications Manager, referenced the handouts he provided. The New York City Delaware River Basin combined reservoir storage as of Sept. 3 was 78.7%, with Neversink at 75.2%; Pepacton 84.3%; Cannonsville at 71.9%; and Rondout at 92.7%. There were directed releases from the lower Basin reservoirs last Thursday at Beltzville and Blue Marsh. Reservoir releases will conclude tomorrow due to Tropical Storm Hanna forecasted to come into the area. A National Weather Service/NOAA storm track prediction map was provided. The estimates for spills to occur on the reservoirs would come about if we have 8 to 9 inches of rain in a 12-hour period.

The month of August was a dry one with Sullivan County 2.1" below normal precipitation; Delaware County 1.2" below normal and Wayne County about 3" below normal. Serio questioned why the chart was showing the mean flow at Montague in the 1700 cfs instead of 1800. Clarke replied that the bank was used but it will be back to 1750 cfs. He suggested contacting the Delaware River Master for more specific details on the flow.

It was announced the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Sept. 24 at the West Trenton Volunteer Fire Company. The hearing will be part of the Commission's regular business meeting. The Conference session will begin at 10:30 a.m. and will include discussion on creation of a floodplain regulations subcommittee. The business meeting will include a resolution to implement the FFMP (Flexible Flow Management Plan) but it is not clear any action will be taken on this subject at this meeting. Any vote on the FFMP has to be unanimous.

The DRBC has not received any applications for gas drilling permits. There is a page on the DRBC website that summarizes the role DRBC will take in the gas drilling permitting process (www.nj.gov/drbc) and Rupert provided the download to the members. In addition, DRBC staff is in the process of developing an addendum to water withdrawal applications to cover additional information needed to review gas drilling applications. To eliminate confusion, Rupert said individual property owners do not need to submit an application, just the gas companies. The exception is if the property owner lets the gas company use the owner's water that comes out to over 100,000 gpd over a 30-day average. Then the property owner would need to be on a DRBC docket for that withdrawal.

Fluhr asked if they can begin drilling a well without a DRBC permit; Rupert said no. Keesler asked who would be policing this; Rupert explained that DRBC will be working with the states on this. The DRBC is working with Pennsylvania and New York State and federal agencies regarding the gas drilling situation. Fluhr wondered if a stop-work order will be issued if the regulatory procedure is not followed. Rupert indicated that it doesn't usually come to that point but we are a regulatory agency with laws to assist us. Niflot asked how long it would take for the DRBC to review the gas drilling applications. Rupert commented that the DRBC has never reviewed this type of drilling as the states did this, but due to the use of high quantities of water in the drilling process that will trigger the application of the DRBC

regulations. The project docket will then go on the agenda for the DRBC meeting. Rupert was not sure how long that would take at this point. The current well drilling will be horizontal and fracing fluids will be used. This is a different scenario then what's happened in the past.

Richardson inquired if the headwater Delaware River Basin reservoirs will be lowered to create a void in preparation for all the hurricanes expected. Rupert said the commissioners need to have a unanimous vote to do that. The most water New York City can release in 2 bgd. There was 80-90 bg of runoff during the June 2006 floods. In that case, NYC would have had to start releasing months in advance. The NYC reservoirs are not flood control dams. The F. E. Walter dam is for flood control and they can release 6 bgd because of the valve works. Serio indicated that the temporary FFMP they're following now allows for a moderate release, i.e., when the reservoirs reach 90% releases kick in. Rupert explained that would be a 1.5 bgd combined release.

Chase commented that since Sept. 1 releases dropped down. It's a killer in warm weather for the fishery. Serio added they're still releasing from Cannonsville for the Montague target. Chase mentioned that he heard that NYC will close the Delaware Aqueduct for repairs. If closed, the Upper Delaware will have loads of water to release. Rupert indicated NYC is still reviewing its findings from the tunnel inspections. The DRBC has requested NYC to let them know when they will be shutting down the tunnel for repairs and NYC seems sensitive to flooding concerns when the tunnel is shut down. This needs to be discussed with the Decree Parties how and if a reservoir water release plan could or would be done. Chase replied if it goes past 1750 cfs at Montague, what happens? Rupert answered it would need to be approved by the Decree Parties.

NYS Dept. of Environmental Conservation: Bill Rudge provided handouts in his absence. First news release, "DEC Launches New Web Page For Marcellus Shale Info" contained information for the DEC newly installed web pages that will provide a fact-based resource about Marcellus Shale gas exploration and the environmental review. The web page will include facts about drilling, Marcellus Shale maps and links to other pages--such as the DEC's searchable database for exiting oil and gas wells, the Landowner's Guide to Oil and Gas Leasing, the Susquehanna River Basin Commission and the Delaware River Basin Commission (the two entities that regulate water withdrawals in the region likely to be tapped.) The new page can be found at www.dec.ny.gov/energy/46288.html#Information.

The second news release, "DEC Finalizes Catskill Park State Land Master Plan" contained information relative to the Master Plan for guiding the future management of the state's 292,000 acres in the Catskill Forest Preserve. The update to the Catskill Park State Land Master Plan has been the subject of extensive public comments and reviews and the new version strikes an appropriate balance of protecting the wilderness and expanding recreational enjoyment. The finalized plan can be found on the Department's website, www.dec.ny.gov/lands/43013.html.

PA Dept. of Conservation and Natural Resources: No Report

National Park Service-Upper Delaware: Sandra Schultz, Asst. Superintendent, reported that given the tropical storm Hanna flood advisory, NPS has activated its high water plan and will be removing assets out of harms way in case there is any flooding in the River corridor.

A team of art conservators will be visiting the Zane Grey Museum to review preservation of original frescoes.

UDC Executive Director's Report: No report at this time.

Old Business

NYS PSC Aug. 27: Finds NYRI Art. VII proposed power line Application in Compliance: The members were provided with copy of an Aug. 27 letter from the NYS Public Service Commission to New York Regional Interconnect indicating that the "Article VII application documents submitted by NYRI on May 31, 2006 (as supplemented on February 21, May 5, and August 8, 2008) were filed and are otherwise in compliance with PSL §122 as of August 6, 2008."

A NYS PSC Notice of Prehearing Conference was issued Aug. 27 by the PSC indicating that the conference would be held Sept. 8 at the Mohawk Valley Community College in Utica. The hearing would be broadcast live on the internet by accessing www.NewYorkAdmin.com and clicking on New York State Public Service Commission (RealPlayer software is required to view the hearing).

A NYS PSC Notice of Public Information Forums and Public Statement Hearings on NYRI's power line proposal will be held Oct. 21 at SUNY Oneonta; Oct. 22 Mohawk Valley Community College Theater in Utica; with a third location near the southern end of the proposed route to be announced. The schedules are—Information Forums 1 to 6 p.m.; Public Statement Hearings 2 to 7 p.m. It is not necessary to make an appointment in advance or present written material in order to speak at the public statement hearing. The clock is now ticking on the one-year timeframe under the Energy Policy Act that is the threshold before NYRI can petition FERC to review the application and bypass state rulings and possibly approve the application.

UDC's FY09 adopted line-item budget: A motion by Wieland seconded by Shafer confirming the salaries line-item change made to the fiscal year 2009 budget as requested by and submitted to the NPS-Upper Delaware to the "actual" amounts from the estimated amounts was carried. The actual amount was $382 less than the estimated amount.

New Business

UDC Resolution 2008-08 Approving Technical Assistance Grants for 2008: As recommended by the Project Review Committee, the full Council on motion by Roeder seconded by Shafer and carried approved the TAGs for 2008. They included:

- Town of Delaware, zoning standards for alternative energy sources, $2,500
- Town of Lumberland, compilation of final comprehensive master plan, $2,500
- Town of Hancock, develop a Local Law for Site Plan Review, $5,000
- Pike County, Matamoras Borough-Westfall Township regional comprehensive plan and open space, greenways and recreation plan, $3,000
- Damascus Township, compile and print 25 copies of township subdivision and zoning ordinances and comprehensive plan for township officials, $2,000
- Town of Fremont, update town's zoning laws to coincide with new comprehensive plan, $3,000
- Towns of Tusten, Cochecton, Delaware & Highland, Managing Natural Gas Development Impacts: Strategies to Protect Town Infrastructure and Land Use, $12,000

UDC Resolution 2008-09 Awarding the Printing and Mailing of "The Upper Delaware" newsletter for FY2009: The Council has opted to produce their quarterly newsletter, "The Upper Delaware", two times a year to reduce expenses. In addition, the newsletter is now available online at the Council's website. To that end, Ramie secured another quote from Courier Printing to cover this new procedure. A motion by Richardson seconded by Serio approving the Courier quote of $4,428 a year including printing, labeling, preparation for bulk mailing and mailing services was carried.

Public Comment: The floor was open to public comment by Chairperson Bowers. Comment was limited to five minutes per person. There were 17 guests, mostly from the Damascus Citizens for Sustainability, who wished to make comment on the gas drilling exploration that will be taking place in the Delaware River watershed. Two written statements were provided to the Council from the group. Some of the comments, in brief:

Bernard Handler – Thanks for work you do. Saddened lots more permits to be filed and more water will be used. We are demanding to know what's in fracing fluid; demanding an environment impact study be done. Requesting UDC to send letters to appropriate officials to make the Clean Water Act viable again with this gas drilling since gas companies are exempt. If 90,000 gpd per well will be used, and given the number of gas wells anticipated, where will this water come from? Rupert answered the addendum to the DRBC regulatory process will ask for fracing fluid ingredients. DRBC has the responsibility for water quantity and water quality in the watershed. DRBC will also look at drilling on site to see what and if will be an impact to water resources. The fracing fluid that is returned to the surface after use needs to be properly treated and disposed of and DRBC wants to know from the gas companies how this will be done.

Not all wastewater treatment plants can accommodate this used fracing fluid. Only two plants in Pennsylvania that can handle briny water.

Mary Handler – I have environmental sensitivity and a lot of people have this problem. We don't have the water for drilling to give. They're using chemicals in the fracing fluid. We need you to do something. I'm upset with the gas companies and federal Act that allows them so much freedom. The River is alive. If this is allowed, like in other places it probably won't be done right. If gas companies come in I'll have to move due to my health sensitivities.

James Barth – (provided written statement) Drilling should be prevented in the Delaware River Valley. There's a massive footprint with drilling that will be left forever. Chesapeake gas company is saying there'll be eight horizontal wells within four miles and thousands of acres will be involved. The land you see from the Narrowsburg Bridge will no longer look the same as land is leased for gas drilling. The air and water pollution will affect residents' health. Barth asked DRBC to look into where drilling sites will be located and he called on the UDC to take a stand on this gas drilling in the River Valley.

Ramona Jan – asked if anyone on the UDC or the DRBC Commissioners have leased any of their private land for gas drilling. No one responded. Jan said thanks, I needed to know that.

Fred Peckham – UDC Alternate from the Town of Hancock, provided the Council with a white paper by Kevin Lewis of The Friendsville Group, "A Board Look At The Environmental Issues Of Natural Gas Drilling." Peckham said anyone could copy this paper. He also offered that he felt since this involved private property gas leases, the owner should be able to do what he wanted with his property.

Jane Cyphers – (provided written statement) Wanted UDC to be the voice of sanity and stop this drilling nightmare. Environmental impact studies need to be done before any drilling is done in this River Valley. There are alternatives for energy. NYS DEC and PA DEP have oversight but UDC needs to have a voice on this. Environmental groups from all over have shown the hazards of this gas drilling. When the gas trucks start rolling, everyone will want to move from here. She noted her property was in conservancy and she didn't buy the land to be surrounded by an industrial zone with this gas drilling. Over the past 20 years, UDC has prevented incompatible uses. Take a stand now. Do your job.

Pat Carullo – We're facing a catastrophic event. It's true what Peckham said, there are private property rights, but doing stuff on private property that goes out of their property (horizontal drilling) affects others. UDC is to protect this area for generations to come. Carullo thanked DRBC for taking an excellent stand on this issue, but he wanted to hear something from UDC, and he was begging the UDC to take a stand on this. There are 1,400 leases in upper Wayne County already. We estimate 20,000 gas wells will be here and that would be catastrophic to the River Valley. Luckily we have the Upper Delaware River designated as national Wild and Scenic or we'd be overwhelmed with wells. Look to New York City, they want gas drilling banned on their property. UDC should take the lead from that.

Raye Levine – This will be an industrial zone. No one wants to buy property that's contaminated. There are health risks. Is it worth it to sell something that cannot be replaced? We're asking for a moratorium so environmental studies can be done.

Josh Fox – I'm a film maker and traveled to the western "gas land". The report from that visit is that most folks there had severe health affects. Truck traffic is non-stop. Burn-offs pollutes the air. Fracing fluids have chemicals involved. It sits in open pits and pollutes the air. Many chemicals are very toxic. The gas compressor stations are very loud and it will affect your hearing. There is a learning curve with this drilling process here, but there will be health problems associated with the drilling. This industry is not regulated. He suggested that people here speak to people in Wyoming and Colorado that have gone through this to see what they have to say about the negative impacts.

Jane Morris – asked what UDC is doing about this and how can DCS help. She said just let us know what we can do.

Michael Lebron – offered that medicines have to be tested before they are provided to the public following a regulatory procedure, but here are gas companies that don't need to do that. He asked DRBC if there would be an accumulative level of impacts that DRBC will consider regarding an application. Rupert indicated that no applications from any gas companies have been received and that DRBC has been reaching out to the states and other agencies trying to learn as much as they can before any permits are issued. This whole process is six-months old. The states have oversight, but with the amount of water withdrawals needed for gas drilling, this triggered DRBC oversight as well.

George J. Fluhr, UDC Representative from Shohola Township, explained to the public that they need to understand how the UDC operates. UDC has been working on this for awhile. We've had seminars; awarded grants to towns studying this. The UDC has not been asked by its member towns to

take a stand. We are gathering and distributing information on this important issue and encouraging groups like the DCS to work on this issue as well. The Council is made up of towns and townships. It is not an entity unto itself.

Phil Chase, UDC Representative from the Town of Deerpark, offered that everyone here has learned something tonight. Newspaper stories about this issue are great and it gets the word out, especially to our politicians. I'm not opposed to a moratorium, but that would have to go through my town, not through the UDC.

Jim Serio, UDC Representative from the Town of Hancock, offered to stay and talk further with the DCS group after the UDC meeting. He felt the more information we get is of paramount importance with this issue. The compelling argument is impacts to water quality.

Adjourn A motion by Roeder seconded by Serio to adjourn the meeting at 10 p.m. was carried.

Carol Coney, Office Manager