

Upper Delaware Council
WATER USE/RESOURCE MGMT. COMMITTEE MEETING MINUTES
Aug. 19, 2008

Committee Members Present: Wieland, Serio, Chase, Sundholm, McKay, Bowers
Committee Members Absent: Shafer, Fluhr, Flaherty
Partner: Martinez
Advisory Council: None
Staff: Douglass, Soete, Coney, Ramie
Guests: S. Schultz, D. Hamilton, C & B Fullerton

Committee Chairperson Charles Wieland called the meeting to order at 7:10 p.m. A motion by Bowers seconded by Chase to approve the July 15 meeting minutes was carried.

Public Comment on the Agenda: Clem Fullerton had some issues with the Friends of the Upper Delaware handout and felt some statements were incorrect.

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

□CARI: Douglass reported Communities Against Regional Interconnect held a face-to-face meeting in Binghamton on Aug. 8. They reviewed the work plans relative to engagements staff was doing regarding NYRI and the federal level issues. Nationally, CARI is working with other areas that are involved with power lines such as Arizona, Virginia and Pennsylvania. The group discussed financial issues and sources for funding. The group is prepared to commence work on the NYRI Art. VII application to the NYS PSC once the PSC has ruled they have a complete application from NYRI.

□NYS PSC: The NYS Public Service Commission issued a Ruling July 31 granting NYRI protection for critical energy infrastructure information. The considered proprietary information in NYRI's application will be held confidential as requested.

□NYRI news release Aug. 18 "NYRI Receives Support of Unions for Jobs and the Environment": The committee was provided with copy of the NYRI news release issued Aug. 18 that touted official support of Unions for Jobs and the Environment (UJAE). UJAE includes unions that build and maintain electric generating and transmission facilities. The Union's president wrote letters of support on behalf of NYRI to NYS Governor Paterson and Senators Clinton and Schumer, citing the Union's longstanding commitment to finding solutions for New York's growing energy problems and noting that NYRI is a viable part of that solution. For information go to the NYRI website at www.nyri.us.

□NYRI: Media reports are indicating that New York Regional Interconnect has made a supplemental filing on Aug. 8 with the NYS PSC that could complete NYRI's application for its proposed power line. This filing may answer the last of the deficiencies in the application as ruled by the PSC. The PSC has yet to rule whether the filing has fulfilled the requirements of the Article VII application process. If the PSC rules the application is complete, the clock will start ticking for reviews, comments, public hearings, and a NYRI application to FERC to fast-track the project and basically side-step the State's process if a ruling on the project goes against NYRI.

Old Business

Upper Delaware Scenic Byway Update: Ramie reported the Byway group met July 28. There was a website report from the website consultant. The consultant is setting up business membership pages and also researching online payment systems. A presentation was made by the D & H Transportation Heritage Council requesting a letter of support for a D & H corridor trail from Sparrowbush to Minisink Ford. The Byway conceptually agreed, but wanted examples of the D & H logo signs for review before they are placed on the Byway sign posts. The Byway is running print ads for professional services for consulting work regarding surveying areas in the Byway corridor that will benefit from selective vista clearing. The Sullivan County Legislature held a meeting July 28 with the Byway Chairperson regarding Sullivan County's funding for the Byway visitors center given the budget tightening the County is going through. This is still being discussed at the county level.

It has been learned that NYS Governor Paterson did not sign the Upper Delaware River Greenway legislation as reported. Additionally, the Byway group and Upper Delaware Council were not included in

the Greenway Council. The next meeting of the Byway group is Aug. 25 at the UDC office in Narrowsburg.

Upper DeIAWARE Roundtable Update: Douglass reported on the Roundtable meeting he attended. There were about 30-40 participants that included a good mix of agencies and stakeholders. The participants held an exercise in prioritizing regional issues. There was also discussion on gas drilling in the area. The Roundtable is looking at how they can collectively use their talents to work cooperatively on the gas drilling issues. The first step to that end was that a committee was formed to work on comments for the updated Supplemental Generic Environmental Impact Statement (GEIS) that the NYS Dept. of Environmental Conservation is drawing up based on a directive from the Governor when he signed the gas well spacing bill. Hamilton noted that the current GEIS is 20 years old and it's good that the governor wanted it updated with the gas drilling activity that's taking place in the State.

Collier of DRBC attended the Roundtable meeting to convey what the Delaware River Basin Commission's regulatory/permit activities will be with the gas drilling in the area. Douglass commented that there is no approved drilling site through the DRBC in the Delaware River Basin as yet. Wieland commented that the gas companies will also need infrastructure for compressor stations.

Upper Delaware River Greenway legislation – NYS Governor's Veto Message Aug. 5: The committee was provided with copy of NYS Governor Paterson's Veto Message of Aug. 5 relative to the legislation for an Upper Delaware River Greenway. The Governor states in his veto message that, "The Upper Delaware River is among the State's finest natural resources, and I fully support efforts to focus more attention on its cultural and recreational opportunities and increase tourism to the area. However, proposals like Greenways that call for an investment of State resources should also include a governance structure that ensures meaningful State participation and oversight." Douglass pointed out that the Governor has now vetoed the Greenway legislation twice even with some changes made to the legislation. Bowers felt the State seems to feel there would be too much "local" control with spending of state funds. Soete added that NYS is looking at budget problems and is now trying to cut \$1 billion from its budget. This may also have been a reason for the veto. The state in the past had set up the Niagara and Hudson River greenways.

PA Fish & Boat Commission "Biologist Reports" – Delaware River & Estuary Angler Logbook Summary for 2005 & 2006: The committee was provided with copy of a summary of the *Delaware River and Estuary Angler Log 2005 & 2006*. A copy of the complete report was provided to UDC from NPS-Upper Delaware as Hamilton had promised. The data was compiled through the Fish and Boat Commission and the National Park Service. The report indicated that since 2001, the Commission and NPS, on behalf of the Delaware River Fish and Wildlife Management Cooperative, partnered to develop a recreational angler catch reporting system to be used throughout the Delaware River Basin. The goal was to employ a single catch-logging program for National Park Service licensed guides operating on the Delaware River and for volunteer anglers. The report notes that although this catch logging program cannot be substituted for comprehensive angler creel surveys, which measure (estimate) total angler catch of important sportfish species, this summary provides a record of catch, harvest and catch rate (catch per hour fished) for popular sportfish species in 2005 and 2006.

Serio had issues with some of the summary statements, such as, "we attribute low reported harvest rates to an increasing catch and release ethic among various angler groups; also, catch rate values reflect both fishing success and fish density. Fishing success might be influenced by weather and flow conditions and density is influenced by numerous river conditions." Bowers had some issues as well.

NPS requested comments from Serio on his problems with the statistics. Serio provided some. In order to not hold up the committee meeting, Serio will discuss comments with NPS at a separate meeting.

Walton Reporter article July 22 – "Federal Reps Back DCEC Hydro Plan": The *Walton Reporter* article of July 22 entitled "Federal Reps Back DCEC Hydro Plan" stated in part, "Delaware County's representatives in Washington, D.C. have voiced support for plans to build hydroelectric generators at New York City Reservoirs in the area. The Delaware County Electric Cooperative (DCEC) has applied to the Federal Energy Regulatory Commission (FERC) to begin the process of placing hydroelectric generating equipment at the spillways of the Cannonsville, Pepacton, Neversink and Schoharie reservoirs. If done right, by not impacting drinking water, the creation of these hydro plants can ensure that upstate will receive something more in return – in the form of a long-term, stable, and local supply of energy that will

economically propel communities from every pocket of the state. The proposed project would provide enough electricity to meet the needs of approximately 20,000 homes.”

Chase motioned that a staff letter should be sent to FERC asking if an Environmental Impact Statement will be done relative to this project to see what impacts it will have on the Delaware River. The motion was seconded by Bowers and carried.

Rio Releases, 60 to 100 cfs Update: Douglass reported on his research into who controls the decision to make the Rio Releases and why have they not gone back up to 100 cfs as it was before the dam was repaired. Chase said Alliance Energy claims the water going into the dams is not as much as it was and that’s why release apparently is down to 60 cfs. Bowers added that the NYS DEC and the Wildlife Service got the 100 cfs release. If this lower release is “official” why weren’t the project Interveners notified for comment? Chase suggested Douglass contact the U.S. Fish and Wildlife Service in Cortland for information.

New Business

Report, NYS Conference of Mayors Symposium Aug. 12, Natural Gas Exploration for Municipal Officials: Douglass provided a handout and brief report of the Aug. 12 symposium he attended for municipal officials on natural gas exploration. There were about 150-200 in attendance. The event was held at the Binghamton Regency Hotel. The program agenda items included: Introduction to Marcellus Shale Exploration -- history and thickness of Marcellus in northeast Susquehanna County and northwest Wayne County; NYS Laws Governing Oil & Gas Drilling; Negotiating A Municipal Oil & Gas Lease; Safeguarding The Public’s Drinking Water; Stakeholders’ Roundtable; and Are You Ready for the Gold Rush? Special Concerns for Municipal Officials.

Soete mentioned that the Pennsylvania Local Government Training Partnership is holding a planning series on “Natural Gas Exploration and Drilling: The Local Government Role in the Future Impacts of Underground Opportunities”. A session will be held Aug. 21 at the Penn State Cooperative Extension Office in Scranton, PA.

Hamilton commented that at the Penn State meeting he attended, it was brought up that if a gas well is drilled within 1,000 feet of private or public wells then the gas company has to test the well water prior to drilling. Hamilton wasn’t sure if it was the same in New York State but he would check.

NYC DEP letter to NYS DEC, gas drilling exclusion zone reservoirs: The committee was provided with copy of a July 18 letter from the Commissioner of the NYC Dept. of Environmental Protection to the Commissioner of the NYS Dept. of Environmental Conservation regarding the oil and gas spacing bill. The letter states in part: “Given the current interest in the Marcellus Shale formation, and the high potential for the introduction of exploratory natural gas drilling in the watershed, aspects of the legislation are of concern to DEP. In addition, we have listened to significant concerns from environmental advocates and stakeholders statewide. Both our own analysis of the potential risks associated with this activity, and questions raised by the environmental community, lead us to have remaining concerns about this bill.” DEP goes on to suggest specific recommendations and concerns, such as “creation of a drilling exclusion zone within a 1-mile buffer to all NYC water supply infrastructure including reservoirs, tunnels, shafts and other appurtenances”; and “an affirmation from DEC or the Attorney General that the natural gas exploration and extraction are not exempt from the City’s Watershed Rules and Regulations.”

The committee had a concern about individual private property located within this buffer zone and how that would impact the owner’s rights to do what they want with their land. Further information was needed.

FUDR Aug. 7 news release “Government’s Plan to Protect Trout Is a Sham, Says River Advocacy Group”: The committee was provided with copy of a Aug. 7 press release from the Friends of the Upper Delaware (FUDR) group. The press release offered FUDR’s point of view on cold-water releases from New York City-owned Catskill reservoirs into the Delaware River system. The press release notes in part, “But instead of seeking a real solution to the crises, the decree parties used public relations ‘spin’ to tout a smoke-and-mirrors approach to the problem...FUDR monitors water flow from the Catskill reservoirs and has been highly critical of irrational, yo-yo releases – heavy when the river doesn’t need the water, then a trickle when it does. In order to gain a single drop of additional water from New York City-owned

reservoirs, air temperatures must be predicted to reach or exceed 90 degrees for 3 consecutive days, and the low temperature cannot go below 65 degrees during this same time period.”

NPS Report: Don Hamilton, NPS Resource Management Chief, reviewed some of the projects that his division has been engaged in recently. This is the seventh year of a program with the DRBC to do sampling/bio monitoring at sites on the East and West Branch Delaware and main stem. They’ve found didymo represents 80% of the substrata covered at one site. They are doing the Inventory of Vital Systems and have selected specific sites to start monitoring this October. They selected 12 tribs for long-term monitoring. One of the important criteria is having access to the streams, so this monitoring favors larger tributaries.

Bald eagle project is ongoing. DEC personnel are getting transmitters on the eagles. An eagle was transferred from Narrowsburg to Albany to get his leg treated and was returned to the wild following healing. This bird now is outfitted with a transmitter.

Mammal survey being done; doing bat species in corridor now. The East Stroudsburg students are doing this study.

The Academy of Natural Sciences provided funding for more work on the bridal shiners in the River. This is an endangered species in Pennsylvania. We have propagating species in the River.

The USGS was here in July relative to the dwarf wedgemussel study. This species has been doing well even with the recent floods.

There is an effort to get Masthope Creek back in its original channel. Now it flows into the railroad grade and the railroad has spent lots of money keeping flooding out. There’s 150 meters of stream in a different channel now. They’d also like to get the railroad ties out of the River bank. Serio asked about the status of the Humphries Brook project in the Town of Hancock. Hamilton indicated the design work for the project was done. They have to ask the Town for the status of the project since the Town was doing most of the work.

Schultz announced that she received information that the DRBC’s Flood Advisory Committee will set up a subcommittee to review and evaluate the similarities and differences in floodplain regulations throughout the Delaware River Basin. They would contact 888 communities in the basin. Representatives on the subcommittee would be two per state, federal, citizens, environmental groups, businesses, etc. The subcommittee should be meeting in September and a report is due out in nine months. Douglass said he would be attending the Flood Advisory Committee meeting tomorrow.

Damascus Township appoints representatives to UDC: Douglass announced that Damascus Township has appointed Dolores Keesler as Representative and Bob Gross as Alternate to the Upper Delaware Council as representatives from the Township. As to the appointments, Supervisors’ Chairman Jeff Dexter has been quoted in the *Wayne Independent* as saying “We feel great about it. Both have put a lot of time and energy into a variety of issues that affect the township over a number of years.”

Public Comment None

Adjourn A motion by Bowers seconded by McKay to adjourn the meeting at 8:40 p.m. was carried.

Carol Coney, Office Manager