

Upper Delaware Council
WATER USE/RESOURCE MANAGEMENT COMM. MEETING MINUTES
Dec. 16, 2008

Committee Members Present: Serio, Chase, Sundholm, Shafer, Fluhr, Keesler
Committee Members Absent: Wieland, McKay, Bowers, Flaherty
Partner: Martinez
Advisory Committee: None
Staff: Douglass, Soete, Coney, Ramie
Guests: D. Hamilton, F. Peckham, J. Niflot

The committee vice-chairperson Jim Serio called the meeting to order at 7:45 p.m. A motion by Fluhr seconded by Chase to approve the Nov. 18 meeting minutes was carried. There was no public comment on the agenda.

New York Regional Interconnect Proposed Power Line, activities update:

CARI: Communities Against Regional Interconnect are moving forward with the NYRI application process. They are reviewing the Marcy South route proposed and having the line underground in certain areas.

NYS PSC: The NYS Public Service Commission held a pre-hearing conference Dec. 16 to review PSC staff recommendations on alternate routes. Martinez questioned if NPS representation should be at these conferences. Douglass noted that UDC does not attend as they are under the auspices of CARI, who does attend. Coney noted that NPS was not on the PSC's Active Party List for notice of these hearings and other rulings. The lists are constantly updated. Martinez would contact the NYS PSC for clarification.

Old Business

Upper Delaware Scenic Byway update: Ramie passed around a program from the Byway model sign dedication held in Narrowsburg. Sixty people attended the event that included speakers and lunch. One of the model interpretive signs is located in front of the Council office. The signs provide some history and other facts about the Narrowsburg area. The NYS DOT worked with the Byway in the production of these signs. The Byway received three proposals for the landscape survey and vista clearing project. They have asked the contractors for an addendum to the proposals to broaden the scope of the project to make it a demonstration project. This project is funded through a grant. Martinez asked if the appropriate safeguards were included in the project regarding private property and state's rights relative to any trees being cut for vista clearing. He was assured that would be taken into consideration. The Orange County Tourism office is working on a reprint of the Byway travel maps. The Byway is working on its 2009 budget. The Sullivan County Legislature, lead agency for the visitors center, has deferred line item funding for the center until the 2010 budget since NYS DOT will not be releasing funds until the end of 2009. The next Byway meeting is scheduled for Dec. 22 at the UDC office.

Delaware River Sojourn update: Ramie reported that the Delaware River Sojourn Steering Committee met Dec. 8. Co-Chairs for the 2009 Sojourn will be Kate O'Hara from the Delaware River Basin Commission and Dick Rhodes of the National Canoe Safety Patrol. Kate will handle administrative tasks and Dick will cover day planning, financials, and fund raising. Ramie will be a member of the Marketing/Publicity subcommittee. The Sojourn will start in June and the theme is "No Family Left Inside" to encourage families to enjoy the River. River sections for the event have not been chosen as yet. The next Steering Committee teleconference is Jan. 13 with the subcommittees holding their teleconferences monthly on the second Tuesday.

New Business

DRBC State of the Basin 2008 Report: The committee was provided with the Delaware River Basin's *State of the Basin 2008* report. Other Council members will also be provided with this report. Serio commented that this report doesn't mention rainbow and brown trout as they are not considered "native" species.

DRBC meeting Dec. 10: Douglass reported on the Dec. 10 DRBC meeting morning session. There were some major presentations: The City of Philadelphia – things they're doing to get the city green, i.e. storm sewers and septic, roof vegetative planting, and more trees along streets. The University of Pennsylvania students covered future of the river and included the region up to Port Jervis, i.e. flooding issues studies and what precautionary measures cities need to take due to sea level rise. New York City reviewed water issues and water tunnels. A video was shown of the divers doing aqueduct leak inspections using a diving bell. Serio said the submersible study showed lots of little leaks. It's been suggested the leakage is 100 mgd. Douglass said the last issue from the meeting was that we met with Doug Austin from the Pennsylvania Fish & Boat Commission and invited him to sojourn the Upper Delaware River as we want to work with him on some projects.

DRBC “Statement on Behalf of the Commissioners Regarding the FFMP and Related DRBC Rulemaking”, Dec. 10: The committee was provided with copy of the “Statement on Behalf of the Commissioners Regarding the FFMP and Related DRBC Rulemaking” presented by Katherine Bunting-Howarth at the DRBC's Dec. 10 meeting. Some excerpts:

The two central documents governing releases from the City Delaware Basin reservoirs are the 1954 United States Supreme Court Decree which equitably allocated the waters of the Basin, and the 1961 Delaware River Basin Compact that established the Commission. The Compact gives the Commission the right to allocate the Basin's waters subject to the limitation that the Commission shall not adversely affect the rights or obligations of the parties to the Supreme Court Decree (Delaware, Pennsylvania, New Jersey, New York State and New York City) without the unanimous consent of the Decree Parties. In September 2007 the Decree Parties entered into an agreement known as the Flexible Flow Management Program (FFMP), an additional tool to manage basin waters by balancing and helping satisfy a complex array of competing objectives and interests. The FFMP is not intended to establish a permanent, unchanging program. Rather, numerous provisions of the FFMP contemplate future changes to diversions, releases and reservoir operations.

In the FFMP agreement, the Decree Parties agreed to evaluate the following parameters as well as additional parameters that may become apparent in the future and provide reports and recommendations: water supply diversions, flow objectives, reservoir releases, drought management, reservoir tailwater habitat protection, discharge mitigation, salinity repulsion, dwarf wedgemussels, Lake Wallenpaupack, recreational boating, estuary and bay ecological health, warmwater and migratory fish, and monitoring and reporting.

The FFMP agreement specifies criteria for modification of the program that may include the following without any particular priority and are not limited to those listed: Decree Party equity; net benefits and costs to environmental and economic resources; source and sustainability of water available to support modification and the environmental or economic resource(s); habitat types, with naturally-occurring habitats receiving consideration over man-made habitats; scientific basis for modification; impacts to drought management, water supply and flood mitigation; extent to which the diversions and the Montague minimum basic rate of flow provided in the Decree are met; potential impacts to water quality; ease and practicality of operation; consistency with adaptive management principles; applicability and implementation of water conservation practices; and impacts to salinity.

After considering public comments, we believe that the goals of the proposed regulations can be better effectuated through a regulation that establishes standards for reservoir operations rather than details that unduly restrict flexibility and the ability to adjust operations in a timely manner as conditions warrant. We also believe that development of the regulations would benefit from consideration of the results of new models that are under development and the completion of studies that are underway. It is therefore appropriate for Commission staff to develop proposed new amendments to the Water Code and Comprehensive Plan for public notice and comment by or in the summer of 2009 or as soon thereafter as practicable to allow for the consideration of ongoing studies and models.

The Decree Parties have informed the Commission that the FFMP agreement has been modified utilizing the adaptive management process provided in the agreement and will continue to be implemented on a temporary basis by the Decree Parties, while the DRBC develops the new amendments to the Water Code and Comprehensive Plan and conducts the public comment and rulemaking process.

The Decree Parties FFMP agreement can be viewed on the DRBC website at <http://water.usgs.gov/osw/odrm/>.

Serio commented that with the FFMP in implementation now we have the ability to improve it. This is also the first time the NYS Dept. of Environmental Conservation and the PA Fish & Boat Commission are actively working together to show what's best for the Delaware River. The flood analysis model is due January 2009. The OASIS model will include the floods of 2004, 2005, and 2006 and what their effects were.

NYS DEC press release “DEC Invites Public Comments on Measure to Protect Forests Against Tree-Killing Pests”: The committee was provided with copy of a NYS DEC press release regarding protecting forests against tree-killing pests. The press release stated in part: “New York’s forests are under attack from numerous invasive insect pests. Over the years, the state has been hit with Chestnut blight, European gypsy moth, Dutch elm disease and Beech bark disease, all with devastating results. More recently, DEC has discovered Asian long-horned beetles and Hemlock wooly adelgids infesting urban and rural forests and killing thousands of trees. Another potentially devastating insect invader, the Emerald Ash Borer, has been moving east from Michigan and has been found in Pennsylvania and near Montreal, Canada.”

“During the camping season earlier this year, New York adopted an emergency regulation that banned the import and limited the movement of untreated firewood. DEC now has proposed to make the regulation permanent. Under the regulation, only firewood cured by heating to a core temperature of 71 degrees Celsius (160 degrees Fahrenheit) for 75 minutes can be moved without restrictions. The regulation restricts intrastate movement of untreated firewood to no more than a 50-mile radius from its source.

Written comments and comments made at the public meetings are treated equally. The hearings are slated for: Jan. 14, 2009 at the Pine Bush Discovery Center in Albany; Jan. 20, 2009 at the Reinstein Woods Environmental Education Center in Depew. Written comments can be submitted two ways – by email firewood@gw.dec.state.ny.us, or mail Bruce Williamson, NYS DEC, 625 Broadway, 5th Floor, Albany, NY 12233.

Draft “Economic and Community Development Plan, Village of Hancock, New York, November 15, 2008”: The committee was provided with excerpts from the Village of Hancock & Hancock Partners draft “Economic and Community Development Plan”. This grant-funded project was presented by the consultant Alan Sorensen. Douglass noted that UDC and NPS staff attended this public meeting. Serio commented that the village is reviewing the plan. Having this plan enables grant seeking. The town and village are working together on this. Ramie added that the Plan includes information on grant sources for projects in the Plan. It also emphasizes Hancock as a gateway to the Upper Delaware Scenic Byway and the Upper Delaware Scenic and Recreational River corridor.

NPS Report: Hamilton reported that NPS has been working on the comment letter regarding the NYS DEC draft scope for the proposed Supplemental Generic Environmental Impact Statement regarding gas drilling. The Upper Delaware is mentioned 14 times in the draft scoping document. The SGEIS will look at resource areas such as the Upper Delaware River, the NYC watershed, and the Catskill Park relative to resource protection. Gas drilling is an industrial activity, but we want natural resource areas conserved since gas drilling is a new activity in this area and it's a 30-50 year activity. The gas drilling will change the character of the area and there's a lot to be aware of with this issue.

Serio commented if a landowner cannot do something with his land due to NYC protecting the reservoir watershed area, there should be remuneration to the property owner, or it's a “taking”. Hamilton replied that's something an attorney should look at. Serio felt it was a “taking” as part of the bundle of rights for the property owner are mineral rights. If they cannot use it, then it's a “taking”. Serio was also concerned with the flowback fluids from the fracking. Hamilton agreed, and noted that it takes about 1 mg to frack a well. Right now 1 mg goes passed Montague gage in 17 seconds. Chase asked how many days would that 1 mg include, and Hamilton said that's the volume of water needed on site for fracking. Drilling is a several weeks' process, and fracking takes a couple of days.

Public Comment None

Adjourn A motion by Fluhr seconded by Chase to adjourn the meeting at 8:46 p.m. was carried.

Carol Coney, Office Manager