

Upper Delaware Council  
**PROJECT REVIEW COMMITTEE MEETING MINUTES**  
July 24, 2018

Committee Members Present:	David Dean, Al Henry, Harold Roeder, Jr., Fred Peckham, Aaron Robinson, Jim Greier, Susan Sullivan
Committee Members Absent:	Larry Richardson, Jeff Dexter, Deb Conway
NPS Partner:	Carla Hahn, Jennifer Claster, Kristen Thorpe
Staff:	Laurie Ramie, Pete Golod, Linda Drollinger
Guests:	Roger Saumure

The UDC's Project Review Committee held its monthly meeting on Tuesday, July 24, 2018 at the Council office in Narrowsburg, NY. Vice-chairperson Dean called the meeting to order at 6:30 p.m.

A motion by Peckham, seconded by Robinson, to approve the June 26 meeting minutes was carried, with Sullivan abstaining.

There was no public comment on the agenda.

**Discussion Items Report:** Golod reviewed his written report, including as highlights:

**Delaware River Solar (DRS) Baer Road Array Site Visit:** Council members Aaron Robinson, Roger Saumure, Jeff Dexter, Harold Roeder, Jr. joined NPS partners Heister, Hahn, Claster, Thorpe and Hamilton, as well as UDC staff members Ramie and Golod and Delaware Town Councilman Al Steppich for a tour of this 2.7 megawatt array on Lahm Road led by Customer Relations Director Cindy Menges and Project Manager Carlos Loayza. Ramie later showed slides of the site visit. Although the array is known as the Baer Road Array, it is sited on Lahm Road in Callicoon. As DRS' first local project, the company wanted to "do it right," according to Menges. The facility, which went on line in January 2018, consists of 8,400 panels on approximately 13 acres and is one of seven DRS solar projects starting in New York State, four of them in Sullivan County: Narrowsburg, Liberty, Monticello, and Callicoon (on Hospital Road, scheduled to start in July). Another project proposal for an array to be located on the Puerschner property, commonly known as the Villa Roma array (but not associated with the resort), has been submitted to the Town of Delaware Planning Board for review. To encourage power production from a local, renewable energy source, NYSEG customers subscribing to community solar receive a 10% discount. This array, serving 350 customers, is almost fully subscribed. Customers continue to be billed by NYSEG, but also receive a 10% credit notice from DRS. With a 25-year panel lifespan, there is a 2-3% performance decline each year, reducing production to 90% in year 10. At the end of their lifespan, panels will be disassembled, and are certified for disposal in any landfill. Array property owner Rich Winter is experimenting with using sheep for maintenance on the site. The flock currently grazing beneath the seven-foot high panels arrived the week prior to the site visit. Whatever grass is not consumed by the sheep will be mowed by tractors driven between the panel rows. Pollinator-friendly plants and native trees will provide vegetation screens for the array, and on-site weather monitors will convey site conditions remotely to engineers. There is a 20% slope limitation for the array. The winter weather plan is to let snow melt off the panels instead of removing it. Whenever possible, DRS will use local contractors for preventative and corrective maintenance. The panels are sourced from China but must comply with U.S. codes. DRS has set up an escrow account with the town and established an upfront decommissioning fee to be used in the event of bankruptcy or abandonment. Claster noted that NPS had asked DRS to move the array out of the river corridor and DRS had complied. Hahn noted that NPS had also requested that transmission lines be buried. DRS consented to the request, but has so far failed to do so, citing prohibitive cost. The Baer Road array offsets five million lbs. of carbon annually, taking the equivalent of one car off the road.

**Town of Highland:**

**Barnes Landfill NYS DEC Response Update:** On 7/6, Golod filed a Freedom of Information Law (FOIL) request for the Barnes Landfill Closure Plan through the NYSDEC's Online FOIL System. A response is due back no later than 8/3. NPS UPDE Resource Management received an interpretation of the Barnes Landfill Validated Sampling (groundwater monitoring well) results from the contaminants specialist in the NPS Water Resources Division. Contaminants included heavy metals (lead, iron, aluminum, nickel, copper, chromium) in addition to industrial chemicals (benzene and chlorobenzene). On 7/22, Golod drafted a follow up letter to NYSDEC Regional Materials Management Engineer James J. Lansing containing additional questions. A copy of that letter was included in the meeting packet. The letter specifically requested to know: why four monitoring wells have been renamed since a 1987 Wehran Engineering Geological Report for the Barnes Landfill provided an evaluation of the existing site; why no inspection results have been documented since the leachate collection system was approved by the NYSDEC on June 1, 1992; if surface water and leachate runoff were sampled in addition to the four groundwater monitoring wells and residential drinking water wells and, if so, would those test results be provided to the UDC; if results from documented inspections occurring between April 2003 and May 2018 will be provided to the UDC; why there are five and six-year gaps between documented inspections; and whether DEC plans to implement a water quality monitoring program with regular inspections and water quality sampling dates in light of the September 2017 finding that nine of 113 toxic constituents found in the monitoring wells exceed both DEC and U.S. EPA safety standards. Golod said he is pursuing letters to the NYS Office of the Attorney General regarding the responsible party investigation and the Department of Health to request residential wells sampling results from adjacent properties.

**Highland Corridor Project Update:** The UDC is awaiting application information requested last month to determine if this project rises to the level of a reviewable Class II significant project. As noted by Cluster at last month's Project Review meeting, the two permits and a hand-drawn sketch received from Highland lack lot size, boundary lines, parcel number and other information required by the town's ordinance. Golod said the town CEO had called and said there is no plot plan available or required by the town. It was asked what next steps would be taken if Highland fails to enforce its own ordinance. Saying that all permit information is required by the county, Peckham suggested seeing whether Sullivan County Planning has the missing information. Golod responded that there is no reason to believe that a town unwilling to send required documentation to UDC would comply with county requirements. Sullivan said asking the county if it has received a form 239 for the project should be the first next step. Hahn was asked what action UPDE could take if a town refuses to submit documentation required by its own ordinance. Hahn said she didn't think there had ever been an instance of a town in substantial conformance failing to comply with its legal responsibilities, adding that a process for this type of situation is described in the Project Review Guide currently being finalized. Peckham summarized it: if UDC does not get requested information, the case is turned over to NPS for enforcement. Hahn confirmed that was essentially what would happen after all UDC avenues have been exhausted. But she urged that the Project Review Committee first talk to the Highland Board. If there is no resolution, then the matter should be referred to the full Council for similar action. Henry suggested sending a letter to Town Attorney Michael Davidoff informing him that requested information has not been provided. Asked at what point the UDC should defer to NPS for enforcement action, Hahn said UDC must determine what action to recommend. Referencing the blunt cover letter from Highland demanding that UDC submit a FOIL request for additional permit information, Robinson said, "I think we're there now." Henry said NYS DOT should be copied on the letter to Davidoff, as the project might encroach on adjacent DOT property. A motion by Henry, seconded by Peckham, to send a letter to Highland Town Attorney Michael Davidoff outlining the steps that the UDC has taken and the information that is needed for the construction at Parcel #27.-9-1 to determine whether the project requires a Class II review was carried unanimously.

**Town of Lumberland:** NYSDOT is making repairs to 13 small culverts and associated drainage structures along Route 97. Work is to be completed prior to the upcoming road paving project scheduled for later in the season along with the related section of highway.

**Pennsylvania: Wayne Land and Mineral Group vs. DRBC:** Golod reported on the status of this lawsuit by Wayne County property owners (Wayne Land and Mineral Group LLC – WLMG) in conjunction with three PA senators: Senate President Joseph Scarnati, Lisa Baker and Gene Yaw, who in October 2017 filed to join the lawsuit

challenging DRBC's authority to declare a de facto ban, in place since 2010, on hydraulic fracturing within the Delaware River Basin. On 3/28/18, a Federal District Court threw out the lawsuit by WLMG. WLMG's reaction to that decision was to file an appeal with the Third Circuit Court of Appeals. On 7/3/18, the U.S. Third Circuit Court of Appeals overturned the lower court's decision, siding with WLMG's challenge of the DRBC's 2010 moratorium on shale-gas development. A federal judge threw out the lawsuit last year, stating that the DRBC has the authority to review and approve natural gas facilities as "projects" under its jurisdiction. The case is returning to the trial judge for further hearings.

#### **Resource Specialist's Update:**

- On 6/30, Golod and Drollinger represented the UDC and staffed the information booth for the 2018 Upper Delaware BioBlitz at the Gales Property in Starlight, PA. A verbal report was given at the 7/17 WU/RM meeting.
- On 7/5, Golod submitted a letter with a status update of the Project Review Guide and a copy of the *Upper Delaware Scenic and Recreational River Design Handbook* to all UDC member participating municipalities supervisors, code enforcement officers and planning board chairs.
- On 7/6 and 7/13, Golod, Hahn and Claster continued to work towards a final *Project Review Guide*.
- On 7/10-11, Golod attended the NPS Long-Range Interpretive Plan Workshop a report was given at the 7/17 WU/RM Meeting.
- On 7/12, Golod sent out FY2019 TAG packets. Applications are being accepted and must be submitted by 4:30 p.m. on August 31, 2018.
- On 7/14, Golod and Drollinger staffed a UDC information booth at the 2018 Zane Grey Festival.
- On 7/16, Golod participated in Kittatinny Canoes 29<sup>th</sup> Annual River cleanup. Hahn remarked that less trash has been recovered in recent years; Golod said he has observed that also. He collected two full onion bags this year in a cleanup that included dives to the river bottom.

#### **Old Business:**

**Minor Amendment for Renewable Energies:** A handout of the process that NPS recommends for pursuing a minor amendment to update the Land and Water Use Guidelines, developed in 1984 by Planning Consultant Tom Shepstone, was reviewed. Hahn discussed the derivation of that process, which she said mirrors the requirements of the Land and Water Use Guidelines and National Environmental Policy Act. Hahn explained the requirement for publishing the minor amendment in the Federal Register. Robinson pointed out that Shepstone's process was developed two years before the RMP was adopted and suggested that the RMP procedure supersedes that described by Shepstone. Further discussion on this amendment had been tabled until after the Baer Road solar array site visit, in the hope that knowledge gleaned from that visit could be applied to actions concerning the minor amendment for renewable energies. That turned out to be the case. Before the June 7 presentation by Houtan Moaveni of NYSERDA and the subsequent site visit, the amendment was going to define energy output limitation; after those events, committee members realized that the amendment should seek to define footprint instead, because as solar systems evolve, greater energy production capability will accrue to ever smaller footprints. Claster said the amendment should address footprint size, compatibility with zoning ordinances, and number of arrays permitted within the area. Sullivan asked that the position paper address large-scale utility installations as opposed to residential installations. Ramie said that was always the case but suggested that, in light of new developments, staff re-evaluate the 2017 renewable energies position paper. Golod told the committee that all New York State towns have already adopted large-scale utility solar ordinances. Shohola is in process of doing the same. Only Berlin and Lackawaxen have not done so. A motion by Sullivan, seconded by Peckham, to authorize staff to re-evaluate the position paper and recommend changes to this Committee and then to full Council was carried unanimously. Discussion about using the minor amendment process to incorporate the conclusions into the Land and Water Use Guidelines may then resume.

**RMP Concerns by Damascus & Shohola:** This topic was tabled at the last Project Review Committee meeting, over Dexter's objections, because the meeting ran long; as Dexter was absent and the meeting again ran long, Ramie asked if it could be tabled again, to be raised when Dexter is present. A motion by Peckham, seconded by Greier, to table it was carried unanimously.

**Cell Service Gap Study:** Ramie said the UDC previously discussed commissioning a study that would reveal cell signal dead zones within the river corridor and make recommendations for addressing them. Hahn said she believes Sullivan County might already have such a map. Robinson said he had consulted several cell phone service providers to see how emergency service could best be supplied throughout the river corridor where there are currently dead zones. Of all the providers, Verizon currently offers the most widespread service within the corridor. He discovered that satellite transmission could be used for emergency calls. Mini-towers could also be affixed to existing telephone poles, but the cost would probably be prohibitive. Frontier came up with a plan that is the simplest, most inexpensive, and least impactful to the viewshed: emergency call boxes placed at strategic intervals throughout dead zone areas. Greier said that 100 years ago the railroad had superior communication from New York to Chicago via telegraph and that today we can't call from Lackawaxen to Shohola. Ramie said the problem has not gone unrecognized and that Alex Rau of Sullivan County will present the county's emergency communication plan at the September 6 full Council meeting. Saying that she is formulating the 2019 budget now, Ramie asked that the Committee inform her if it wants to proceed with plans for a cell service gap study. She explained that consultant studies are budgeted after mandatory expenses have been allocated, and the study is then scaled accordingly. Hahn asked if this study would focus solely on emergency communications or if it would include data transmission; Ramie said emergency calls from the public to 911 would be the primary focus. Peckham said residents and visitors alike have long wanted cell phone service in the river corridor.

**Other:**

**Spotted Lanternfly Sighting:** Included in the meeting packet was a July 17, 2018 New Jersey Department of Agriculture news release confirming a spotted lanternfly sighting in Warren County. The sighting was made on the insect's favorite host, the Tree of Heaven plant. This invasive plant hopper first appeared in the U.S. in southeastern PA in 2014. The department is asking for the public's assistance in identifying spotted lanternfly within NJ. Residents are asked to email photos of suspect insects to [SLF-plantindustry@ag.nj.gov](mailto:SLF-plantindustry@ag.nj.gov), or to call the New Jersey Spotted Lanternfly Hotline at 1-833-223-2840 (BAD-Bug-O) and leave a message with their contact info and details of their sighting. Golod reminded the Committee that spotted lanternfly is expected to reach the Upper Delaware by summer 2019 and that lanternfly spotters are being sought by Catskill Regional Invasive Species Partnership (CRISP), especially in the towns of Deepark, Highland and Mamakating. Anyone interested should visit [www.catskillinvasives.com](http://www.catskillinvasives.com) or contact John Thompson at 845-586-2611 x120.

**New Business:**

**2019 Technical Assistance Grant Program:** Golod noted that this year no estimate of available funding was provided in announcement of the program opening. Ramie observed that there were fewer applications last year and speculated if that might be due to a narrowed scope of eligibility criteria. A July 12 news release by Ramie was included in the meeting packet. It defines project eligibility parameters and announces the September 11 special Project Review Committee meeting to interview applicants and review their proposals. Eligible FY 2019 projects must be directly related to land use planning, zoning revisions, comprehensive and master plan updates, codification of local laws, and Geographic Information Systems (GIS) planning. Approval of grant awards is expected to follow at the October 4 monthly meeting of the full council. Midterm progress reports by successful grantees will be due by March 1, 2019. The deadline for municipalities to complete their projects and submit documentation for reimbursement is August 30, 2019. Since its inception in 1988, the UDC has awarded \$857,188 to help subsidize 249 non-construction projects. Municipalities eligible to participate in the TAG program are the UDC's eight New York towns: Hancock, Fremont, Delaware, Cohecton, Tusten, Highland, Lumberland, and Deepark; five Pennsylvania townships: Damascus, Berlin, Lackawaxen, Shohola, and Westfall; and the encompassing counties of both states: Delaware, Sullivan, Orange, Wayne and Pike. Buckingham and Manchester Townships in Wayne

county, PA would also be eligible, if they joined the UDC. Application forms, grant criteria, contract guidelines and a directory of past projects are available for download on the UDC's website at <http://www.upperdelawarecouncil.org/grant-program//>. Dean asked if TAG funding could be used for the Cell Phone Gap Study. Ramie noted that the TAG program is one of the most valuable benefits UDC offers its members. Ramie said the UDC will not issue contracts for Fiscal Year 2019 (October 1, 2018 – September 30, 2019) until review of its award recommendations by the National Park Service Northeast Region is complete, based on last year's experience with an award approved by UDC and subsequently denied for funding by NPS. A motion by Robinson, seconded by Henry, to allocate \$15,000 for the FY 2019 TAG program was carried. Roeder noted that TAGs have in the past been given for historical projects as well as land use planning initiatives and wondered if eligibility criteria could be expanded to include those projects again. Robinson noted that NPS is spending heavily on Zane Grey Museum, in recognition of the importance of river corridor culture.

**Other:** None.

**Public Comment:** None

**Adjournment:** A motion by Peckham, seconded by Greier, to adjourn the meeting at 8:40 p.m. was carried.

*Minutes prepared by Linda Drollinger, 07/30/18*