

UPPER DELAWARE COUNCIL MEETING MINUTES

June 2, 2011

The Upper Delaware Council held its monthly meeting on Thursday, June 2, 2011 at the Council office in Narrowsburg, NY. Chairperson Larry H. Richardson called the meeting to order at 7:30 p.m. The Pledge of Allegiance and roll call followed.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder, Jr., Town of Cochecton-Larry Richardson, Town of Tusten-Susan Sullivan (as of 8:15 p.m.), Town of Highland-Debra Conway, Town of Lumberland-Nadia Rajs, Town of Deerpark-Phil Chase, Damascus Township-Jeff Dexter; Berlin Township-Lillian Russell, Shohola Township-Scott Rando, Westfall Township-Peter Kenny (departed at 7:50 p.m.), State of New York-Bill Rudge, Delaware River Basin Commission-Carol Collier, National Park Service-Carla Hahn. Absent: Lackawaxen Township, Commonwealth of Pennsylvania.

Approval of May 5 Meeting Minutes: Chase questioned a statement made under New Business-Other: "Peckham said that this is a small withdrawal proposal of 250,000 gallons per day, which amounts to 0.16 cubic feet per second." The statement pertained to discussion of XTO Energy's application to withdraw up to 250,000 gallons of water per day from Oquaga Creek in the Town of Sanford, Broome County. Chase said that the math didn't add up. Peckham agreed that the minutes were mistaken. The formula is 16% of one cubic feet per second, which amounts to 0.38 cfs in this case. A motion by Kenny seconded by Rajs to approve the May 5 meeting minutes as amended was carried. Conway asked whether there was a discussion or vote taken against the UDC making a comment on the XTO docket to the Delaware River Basin Commission. Peckham said there was no vote, it was just stated. Conway suggested that the UDC should have commented that we needed more time beyond the June 1 deadline. She believes it's unwise to fail to comment on any DRBC action.

Public Comment on the Agenda: Bernie Handler of Damascus, PA said that the UDC had agreed at the May 5 meeting to seek clarification from the DRBC about its procedures regarding applications for natural gas drilling projects. Handler continued that the June 1 deadline for the XTO docket didn't allow enough time for the UDC to comment. Collier responded that the DRBC practice is to provide a 10-day minimum notice. They held a second hearing on June 1 in Deposit to accommodate the public. Handler reiterated that the UDC committee structure does not provide enough time for the Council to act with a 10-day notice. Collier said that there is staff review and commissioner review of dockets to be considered as well, but she would take this suggestion under advisement.

Committee Reports: The committee reports were provided based on the meeting minutes. They were: May 17 Water Use/Resource Management by Chase; May 24 Operations by Richardson; and May 24 Project Review by Peckham. As mentioned in the WU/RM Committee report, Richardson congratulated audience member Dolores Keesler for her designation as "Lady High Admiral" for the Delaware River Sojourn on June 18. Kenny said that since we have copies of these minutes to read individually, he makes a motion that we not read them out loud. Richardson said that is left up to the discretion of the committee chairs. He prepares his own report based on the minutes. The idea is to mention the highlights. People in the public don't always get the minutes. Peckham seconded Kenny's motion to forego reading of the

minutes. Kenny added that they are printed and in the record. Chase offered that the minutes have always been handled this way through the years and he had adopted the system for himself. Richardson called for a vote. The motion failed to carry. As part of his Operations Committee report, Richardson read the text of Office Manager Carol Coney's May 24 letter announcing her retirement effective May 24. He said that we appreciate Coney's services to the UDC over the years and expressed that she had been a help to him. Roeder asked whether the UDC has received any applications based on its advertisements for a full-time secretary. Ramie replied that 15 have already been received after the first ad appeared on May 31. Rajs provided an update to the Upper Delaware Scenic Byway portion of the report. The Town of Lumberland did file for the Federal Highway Administration grant by the May 27 deadline. That was the only one out of three identified projects that were able to comply with the short timeframe.

Status Reports

Delaware River Basin Commission: Collier reported that the DRBC received 58,000 comments on its proposed natural gas development regulations. Chemical and biological river sampling is underway. Samples taken at confluence points are being saved as baseline measurements for water quality testing. Richardson asked what the DRBC is looking for. Collier said there are a whole host of parameters, from assessing which macroinvertebrate species are there now to Total Dissolved Solids.

Three hundred and thirty people attended the June 1 XTO Energy hearing at Deposit High School, which started with a 3:45 p.m. presentation of the docket proposal followed by an hour-long question and answer session. This was a new format for the DRBC. During the four-hour public hearing, 111 people testified. The DRBC has received over 9,000 written comments on the XTO docket. The UDC meeting packets included an article, "Oguaga Creek water withdrawal request draws flood of responses", from the June 1 *Press & Sun-Bulletin*.

Collier referenced the lawsuit that the New York State Attorney General has brought against the federal government demanding that the DRBC and other federal agencies do a full review of natural gas drilling impacts in compliance with the National Environmental Policy Act (NEPA). Collier noted that U.S. Army Corps of Engineers Division Commander, Brigadier General DeLuca, had already sent a letter stating that the DRBC is not subject to NEPA because it is not a federal agency. The UDC meeting packets included an Associated Press article, "NY sues over gas drilling review", from the June 1 issue of the *Times Herald-Record*.

On May 31, Collier reported that the DRBC received a letter from NYS Department of Environmental Conservation Commissioner Joe Martens asking the DRBC to withhold acting on any natural gas proposals until the New York State regulations are out on the street. She expects that this request will be discussed by Commissioners at their July 13 DRBC meeting.

Collier will participate in a June 3 press action for the "Delaware River Basin Conservation Act of 2011" in the State of Delaware. Senator Carper is leading the charge. This would authorize \$5 million for Delaware River conservation and restoration projects. It's not through the mill yet but this would elevate its priority.

Addressing the Delaware River Flow and Storage Data hydrology report as of May 27 that was handed out, Collier observed that the river is up and the salt line is off the map. She hopes the water level comes down further before the Delaware River Sojourn on June 18-25. In addition to the Admirals mentioned here, Brigadier General DeLuca, the federal representative to the DRBC, has been selected as a Sojourn Lord High Admiral for June 23.

The new Flexible Flows Management Program (FFMP) unanimously approved by the Decree Parties began on June 1 and will be in effect for one year. Collier said there are still studies to be done before reaching a longer-term agreement for managing diversions and releases. The current plan makes use of New York City's Operations Support Tool (OST) and new release rates. It takes more factors into account, such as where we are in the season. That will be good for the fisheries. Either 10% or 5% storage voids in the

reservoirs will be maintained at various times of the year. Collier distributed a fact sheet and a May 31 news release from the Delaware River Master's Office, "Delaware Basin States and New York City Announce New Reservoir Operating Plan Agreement", for further information. She concluded her report by stating that activities to recognize the DRBC's 50th anniversary are continuing to be planned, and reiterated that the next DRBC meeting will take place on July 13.

Rajsz asked whether a year is long enough to determine if the new reservoir operating plan works. Collier said that the year timeframe was necessary since they weren't able to get answers as yet to all of the issues. There are still some negotiations going on. Peckham asked if releases from Lake Wallenpaupack are still being counted toward Montague targets, to which Collier replied yes.

NYS Dept. of Environmental Conservation: Rudge referenced his handouts. The first was a June 1 news release issued jointly by the NYS DEC and New York City Department of Environmental Protection (DEP), "New York State, New York City Sign Multi-State Water Management Agreement: New Agreement Improves Water Management for the Delaware River Basin." He said the release says essentially the same thing as the River Master's news release, but they avoided using the phrase "FFMP". Rudge said that the DEC has high hopes for the new plan and the application of the OST technology. His next handout was a May 25 news release, "DEC Accepting Applications for Volunteer Fire Assistance Grants." Rudge noted that these grants are really targeted to rural fire departments. He asked the NYS UDC representatives to make their communities aware of this opportunity. The application deadline is June 15. The third handout was a June 1 news release, "DEC Promotes Green Chemistry in New York Schools." Rudge pointed out that Liberty High School has been chosen as the Hudson Valley candidate to participate in this pilot project to manage chemicals in their high school laboratories by adopting green chemistry practices and redirecting their chemical purchasing towards less toxic chemicals. A fourth handout was a June 2 news release, "DEC Proposes Regulations Allowing the Use of Crossbows for Big Game Hunting: Proposal Allows Physically Disabled Persons to Hunt with a Modified Longbow." Rudge said this announcement was made today, with public comments being accepted through July 11. The new legislation would replace the former Modified Archery Permit and allow hunters with permanent or temporary physical disabilities to hunt both big game and small game in all hunting seasons. Peckham said that New York is catching up with Pennsylvania on this issue.

Chase praised the "combination effort" by New York State and New York City to improve water management for the Delaware River reservoirs. The OST model is being used to stabilize the CFS flows. The one-year timeframe will drop the reservoirs down and provide some flood protection. This is a terrific and important victory to see the rivers come back.

PA Dept. of Conservation & Natural Resources: No report.

National Park Service-Upper Delaware: Hahn implored all, "When on or near the river, please use a life jacket." A drowning took place over Memorial Day weekend of a 71-year-old man who had a life jacket in his raft but was not wearing it. This message can't be emphasized enough. The boat rental liveries give safety talks but we can't control what people do when they're out of sight. Peckham said that people take their own risks and you'll never get 100% compliance.

Hahn reported that the Park Service has been busy getting its summer seasonal staff trained and its facilities ready. Unfortunately, they have had to deal with rain, power outages, and storm damage simultaneously. The Towpath Trail at the Roebling Bridge has been negatively impacted by high water three times since last October. Hahn encouraged anyone who sees their seasonals out there to say hello and challenge them with questions about the Upper Delaware.

In her coordination of issues that come to the river valley, Hahn has identified 45 different potential resource impacts since last September. Having worked here for 31 years, Hahn said she notices that they're coming in much faster over the last 10 years. There is a lot going on, and NPS and UDC are both right in the middle of it, she said.

Hahn concluded her report by mentioning that Roscoe won the World Fishing Network's "Ultimate Fishing Town" contest. This garners the nearby hamlet a \$25,000 award, half-hour television show, and the right to promote their Ultimate Fishing Town designation.

Katie Collins, an intern at *The River Reporter*, asked Hahn if NPS would be cutting back on its internships. Hahn said there may be budget cuts that affect the ability to hire seasonal field staff. That is the general trend. As Park Service employees have retired, they have not been replaced. The goal is to try to keep people in the field though. Niflot asked how many interns there are. Hahn explained that there are various designations of seasonal staff, interns, and volunteers, both paid and unpaid. The Upper Delaware has around 10 seasonal staff that work for three months.

UDC Executive Director's Report: Bill Douglass reported that he is pleased with the turnout of applications for the secretary's position so far and expects many more. Richardson said that the UDC's Personnel Subcommittee will be involved with trying to narrow down the selections.

Old Business: None

New Business

UDC Draft Resolution 2011-04 Approving a Change in Employee Health Insurance Plan to Take Effect June 1, 2011: Richardson explained that this resolution had been sent back to committee after the May 5 meeting and was now recommended for approval. A motion by Rajsz seconded by Rando to approve the resolution was carried unanimously.

Reply Letters from NYS DOT & PennDOT: Directional Signage for Grover Hermann Hospital, Callicoon, NY: Members reviewed a May 16 letter from John R. Williams, Regional Director, NYS Department of Transportation Region 9, and a May 20 letter from Keith D. Williams, District Traffic Engineer, and Robert Wasilchack, District Traffic Studies/Safety Supervisor, PA Department of Transportation District 4-0. The NYS DOT letter stated, in part, "Our Regional Traffic Safety and Mobility Office will perform a review of the area to assess the current situation and outline opportunities for improvement. We expect to complete the review by the end of July 2011. We will notify you and the appropriate agencies of the results of our review including recommendations for improvement." The PennDOT letter stated, in part, "...The Pennsylvania Department of Transportation regulations for a D9-2 'Hospital' sign (see attached) only allow the signs to be located within three (3) miles of the facility. In addition, the Department can only install signing on state highways and not local roads. Therefore, the only locations which meet Department criteria are at the intersections of SR 1016 (Callicoon Road) & River Road, and PA 371 (Cochecton Turnpike) & River Road. Please be aware that we are currently in the process of selecting appropriate locations for the signing at each intersection mentioned. The requested 'Hospital' signing will then be ordered and installed at these intersections." Rudge commented that it sounds like both agencies are taking action. Richardson said this is a very important matter.

2011 Delaware River Sojourn, Upper Delaware Itinerary, June 18-20: Day plans for the Upper Delaware section of the 2011 Delaware River Sojourn: River of Life were handed out, with no action necessary.

Other: Senior Resource Specialist Dave Soete referenced a handout announcing the availability of FY 2012 Technical Assistance Grants. The application deadline is Sept. 2, 2011. Soete asked members to help get the word out that the application guidelines and forms are posted on the UDC's website. Richardson asked if the forms would be mailed. Soete said that we send some paper copies but try to do as much as possible by e-mail. Richardson said that direct mail correspondence always appears before town boards. Some local officials don't have e-mail. He asked if there was consensus to mail packets to the supervisors of each UDC member town and township, which there was. Roeder said it's especially helpful to remind them of the changes to the timetable of the TAG program. Soete added that the UDC also issues an annual

news release about the TAG program. In other new business, a motion made by Rudge and seconded by Conway to send a letter of appreciation to Coney in light of her retirement was carried.

Public Comment

- Dr. Larysa Dyrszka of Bethel, NY addressed the board. She introduced herself as the daughter of the late Peter Melnyk, a former UDC representative from the Town of Lumberland, and a pediatrician. At the last meeting of the Upper DeLAWARE River Roundtable, they discussed potential health impacts from natural gas drilling. There have been a couple studies done about this in other states but not here. A group from the Roundtable has been meeting over this. They have applied to the John Hopkins University Bloomberg School of Public Health to serve as lead agency with facilitation from the Roundtable to conduct a Health Impacts Assessment (HIA). The project would be to assess the potential health impacts of gas drilling in the Delaware River Basin and inform development of regulations. They expect to hear in a month whether the proposal is accepted. Dyrszka said they would like the UDC to be a stakeholder. That just means that the Council would provide input. Requests are also being made of such entities as the DEC, DEP, Department of Health, and others. Rajsz asked how the study would be done. Dyrszka said that the amount of funding received will determine how extensive it will be. The maximum grant is \$125,000, which would be an intermediate level. Peckham asked about the source of the funding. Dyrszka said that the Pew Charitable Trust and Robert Johnson Foundation would be the grantors. The study will look into water, air, and soil issues as well as psychosocial and economic factors. This is a tool helpful for any land use proposals, much like an environmental impact study, to inform the development of policies, procedures or regulations. Council members agreed to refer Dyrszka's request to the Project Review Committee for further discussion. Sullivan asked Dyrszka about her experience in testifying before the New York State Assembly. Dyrszka confirmed that she was among 10 speakers invited to testify at the Assembly's hearing last Thursday. People are concerned. She hasn't met a doctor yet who feels natural gas drilling is safe based on the current way it's being done. Sullivan questioned whether Dr. Theo Colburn offered testimony on endocrine disruption. Dyrszka said that Colburn's work was mentioned but she was not present. Other testimony was provided by a toxicologist and hydraulic fracturing experts. Richardson asked whether the Department of Health (DOH) will issue an opinion on this. Dyrszka said that the DOH is being asked to contribute as a stakeholder but that doesn't oblige the agency to follow whatever conclusions are reached. The same is true of all HIA stakeholders. Dyrszka said she would forward additional information on the HIA request to the Council for the Project Review Committee's consideration. She recommended visiting www.healthimpactproject.org in the meantime.
- Anne Willard of *The River Reporter* referenced the Town of Cochection Zoning Law Amendment Update from the May 24 Project Review Committee meeting. She asked whether Soete had completed his review of the proposed Zoning Law, Subdivision Law, and Comprehensive Plan since the minutes stated that there could be a vote on June 8. Soete said that he is still reviewing them. Richardson said that he needs to send comments. He clarified that the date of the public hearing is June 16.
- Bernie Handler of Damascus, PA addressed Collier in saying that the 10-day notification period for dockets doesn't seem to allow for public comments. Richardson asked if we can be alerted when the applications are filed. Collier said that the DRBC posts "Notices of Applications Received" on its website. That's the first step in the process. Posting the proposed docket on the website is where the 10-day period comes into play. Anyone can ask to be put on a list of Interested Parties and sign up for e-alerts. Richardson suggested that the UDC could put a procedure in place for what steps to take when we learn of these notices.

Adjournment: A motion by Rajsz seconded by Roeder to adjourn the meeting at 8:50 p.m. was carried.