

UPPER DELAWARE COUNCIL MEETING MINUTES

October 6, 2011

The Upper Delaware Council held its monthly meeting on Thursday, October 6, 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 Cocheton-Larry Richardson, Town of Tusten-Margaret Harrison, Town of Highland-Andrew Boyar, Town of Lumberland-Nadia Rajs, Damascus Township-Joseph Canfield, Lackawaxen Township-John McKay, Shohola Township-Scott Rando, Commonwealth of Pennsylvania-Dennis DeMara, Delaware River Basin Commission-Bob Tudor, National Park Service-Sean McGuinness. Also in attendance: Town of Delaware-James Scheutzow (Town Supervisor) and Debbie Conway-Town of Highland alternate. Absent: Town of Deerpark, Berlin Township, Westfall Township, State of New York.

Approval of September 1 Meeting Minutes: A motion by Boyar seconded by Rajs to approve the September 1 meeting minutes was carried unanimously.

Public Comment on the Agenda: None

Committee Reports: Committee reports were provided based on the meeting minutes. They were: September 20 Water Use/Resource Management by Rando; September 27 Operations by Richardson; September 13 Project Review Special Meeting by Peckham; and it was noted that there was no quorum for the September 27 Project Review Meeting.

Rando updated, in reference to the Tennessee Gas Pipeline reclamation process, that it was getting pretty late to be planting any food plots of clover, etc. and that the company is probably going to plant a winter crop such as rye and maybe do something in the spring for the hunting clubs. The main thing at this point is to keep the erosion down.

McKay expressed that he does not feel that the reading of the minutes verbatim is necessary. He believes they should be summarized. McGuinness questioned if it could be made a requirement that the minutes have to be summarized. He noted that this subject has come up several times. Boyar suggested a five-minute limit for the summarizations of the minutes as they are available on-line for anyone to read in as much detail as they want. Richardson said that all points are well taken, but the decision as to how to deliver these reports is up to each committee chairperson.

Richardson referenced the letter sent out by Ramie to all representatives and alternates regarding committee memberships. He reinforced the fact that it is getting more and more difficult to seat a quorum in any of the committees. He stated that many of the Council's positions are discussed at the committee meetings. He asked everyone to please give membership some consideration.

DeMara questioned Peckham if the Technical Assistance Grant applicants provide a scope of work and how does the UDC assess if they can complete the project if they are not funded 100%. Peckham advised him that one of the questions asked of the applicants during the interview process is if they would still proceed with the project if they were not to receive any grant money. He told DeMara that most applicants answer that they would still do the project. Peckham advised DeMara that the amounts awarded this year were the average of what the committee members felt each project was worth individually.

Status Reports

Delaware River Basin Commission: Tudor emphasized that it has been a very atypical precipitation year for this basin. Referencing the Delaware River Flow & Storage chart, he noted the water in storage at the three NYC Reservoirs is at 90 billion gallons more than the long-term median and 118 billion gallons more than a year ago. Some of the really remarkable statistics are those for the Delaware River at both Montague and Trenton measuring the cubic feet per second (cfs) which were 1,101.7% and 999.5% of normal. Tudor said his staff informed him that in July and August we received half the rain that we normally get in a year. In 40 days, we received 30" of rain. Another statistic also of interest is the salt front. Tudor explained that DRBC not only focuses on the Upper Basin, but all the way down to the Ocean and as the graph shows, the salt front is less than 54 miles from the ocean. The water salinity line is down in the middle of the bay where it is typically almost up to Philadelphia. As a result, in the upper part of the bay, mortality rates for oysters are at a level of between 20% and 40%. A sustained fresh water flow into the bay is not a good thing in this case, Tudor explained. Tudor referred to the precipitation graphic provided showing rainfall amounts for Hurricane Irene and Tropical Storm Lee. He noted that with Irene, over a five-day period, rainfall amounts ranged from 6" to 10" and with Lee they ranged from 10" to 15" in some areas over a four-day period. He said with back to back storms of this magnitude, there is no flood mitigation capacity to handle this amount of water. Tudor noted that the Susquehanna River and the Passaic River both experienced historic flooding. The Delaware River, which lies in between these two rivers, experienced some significant flooding, but not quite as bad as those two rivers.

Tudor noted that they have been working very hard to build their flood warning system. He said that there are a lot more USGS gages in the Delaware Basin System. Referring to the third of his handouts, he explained that the colored dots on there are forecast gages which are connected to the National Weather Service. One is able to take Doppler radar information, connect it to the gage which is connected to the inundation maps and ultimately to the offices of emergency managers in local governments so they know what is going on. He continued to explain that the different colors indicate different levels of flooding. After Irene, we saw more minor levels of flooding and with Lee we experienced more moderate to major levels due to higher amounts of rainfall and the fact that everything was so saturated then.

Tudor mentioned seeing Sandy Long's article in *The River Reporter* entitled "Watching Water Quality: Monitoring for Natural Gas Development Underway" and said that when DRBC Representative Tom Fikslin was at the August UDC meeting, he described the monitoring program and its focus. Tudor said it is basically the DRBC working with its partners to try and get ahead of the curve and say before there is natural gas activity in the basin we want a reference condition of our streams. They have completed the sampling on the New York side of the river, but some of the sampling was done as recently as the past couple of weeks and there is some concern that the results may no longer be representative because of the change in the hydrologics of the river with the kinds of river flows that have recently occurred. As a result, they will have to note this and take it into consideration and be very careful as the data is analyzed. They feel it puts them in good stead in terms of having a benchmark in order to be able to assess impact moving forward if there is any activity. Tudor mentioned that he had just heard a report on the Philadelphia public radio station WHYY of a study done by the Philadelphia Academy of Sciences. They are conducting sampling in the small headwater streams in the Susquehanna Basin where gas drilling has been underway. They set up reference conditions where there was no drilling, where there was a medium amount of well pads and also in a high density amount of well pads, and they're looking to see if there is any statistical correlation between changes in stream communities. Preliminary indications are there is some correlation. The reports can be accessed at: <http://www.newsworks.org/index.php/local/item/27815-researchers-study-impact-of-drilling-on-stream-life>.

In reference to hydrology report monitoring, Tudor says they always try to leverage some federal dollars to this area to do good things and to help us manage. The USGS WaterSMART Pilot study of the Delaware River Basin will bring \$1.5 million to the Basin over the next three years and although we are already data rich in this area, it will allow us to take all of the data and put it into hydrologic models where the different pieces of the system will be connected. As a result, we are going to be able to do some alternative future scenarios such as determining what the water demands of the future are going to be; will the next 100 years be different in terms of droughts or more floods; land use, and the natural gas development landscape. Tudor said it is a national initiative to determine that we will have enough water to

meet both the human and ecological needs in the future. Tudor said they will have more meetings over time, but they have not been scheduled yet as they are waiting on the federal budget.

Tudor remarked that the DRBC is in the fishbowl right now in terms of natural gas development regulations. He said they have received approximately 69,000 comments on the rule proposal done a year ago back in December. He announced that the Special Meeting of the Commission, at which there would be a vote on staff recommendations originally scheduled for October 21st, is going to be delayed until sometime in November in order to allow additional time to complete the ongoing process and to allow for an opportunity to publish the modified draft regulations on the DRBC web site two weeks in advance of the expected vote by the commissioners. The commissioners and staff have been reviewing the comments and considering how the draft rulemaking should be modified based on the public input. It will still be held in the Patriots Theater at the War Memorial Complex in Trenton, N.J. Tudor noted that there are still some big issues on the table that are being worked through. One of the contentious issues is what is the DRBC's comfort level being in the land use arena. Another issue is [assuring that the process is not open-ended](#). [There is ongoing consideration of a process that would entail taking a pause after gas drilling has commenced and see what is happening](#). Determine if it is working or not working from both an environmental perspective and an operational perspective. Determining what the right set-backs from sensitive features such as drinking water sources, wetlands, and water bodies is still an issue. Another big issue is financial assurance. If something goes wrong, how does one make sure that there are financial resources to go fix the problem as quickly as possible as it is an industrial activity and things do happen. And lastly, what to do with all the flow back water is an issue that needs to be addressed. They are trying to reconcile what the minimum standards for wastewater management should be. Tudor said that these are the big issues to be resolved in the next couple of weeks and that the DRBC will be holding its special meeting at the end of next month. Peckham brought attention to the fact that the NYS DEC's meeting in the watershed is November 29th and suggested the DRBC not hold its meeting on the same day. Tudor stated that their decisions will be made before that date unless something beyond his control happens. McGuinness questioned Tudor if the issues he mentioned are being reconsidered in the regulations. Tudor responded that there are five members and if they all did not have a similar mind, there would be a negotiation. He said that the federal agencies have been very active in participating in the deliberations about what the final product would be. He commented that this issue is regionshaping and the [Commission needs to be as deliberative as it can be](#).

Boyar, referring to the flood forecast location handout, asked Tudor if the DRBC is developing its own model or if it is a repeat of what is available on-line at USGS. Tudor informed him that it is a National Weather Service product and that what the DRBC tries to do is connect the dots in order to serve up products that people can use.

Peckham pointed out that the gage at Lordville has no flood levels established and wanted to know what the criteria is to have that done. Tudor explained that some of the gages are forecast gages that are connected to the National Weather Service and early warning system. He believes that the Lordville gage monitors water surface elevations, but that it is a question of if it is connected to the other system. He told him that he will look into it and get back to him. Typically, there is a cooperating partner on these gages with the USGS and he needs to figure out who that partner is. Tudor said that over the past year, nine new [forecast gages have been enhanced to include flood inundation information](#).

NYS Dept. of Environmental Conservation: No report in the absence of Bill Rudge. Ramie noted the public hearing information announcement for the NYS DEC Draft Regulations for High-Volume Hydraulic Fracturing was provided. She stated that the most local opportunity to attend the public hearing will be on November 29 from 1 – 4 or 6 - 9 at the Sullivan County Community College in Loch Sheldrake, NY.

PA Dept. of Conservation & Natural Resources: DeMara stated that the Governor will be announcing the 2011 Community Conservation Partnership Grants and they are planning for the 2012 grant program which opens January 11th and closes April 4th. He said that webinars are being conducted to let our partners know how the grant program works.

DeMara referenced handouts regarding upcoming programs in Pike and Wayne Counties. They include Wildlife & The Forest Ecosystem on October 21 at Promised Land State Park and The Black Bear Film Festival mid-October in conjunction with a number of programs with the US Forest Service, Grey Towers Heritage Association, and Pike County Conservation District.

DeMara noted the DEP news release, "DEP Reorganizes to Improve Efficiency, Transparency" included in the board member packets. It is a summary of the restructuring of offices within the Department of Environmental Protection. They are trying to streamline and have a more uniform manner within the Department. The flowchart provided shows the new structure of the DEP. Peckham questioned if the flowchart was available on any websites and DeMara told him it is on the DEP website.

DeMara provided the Governor's Marcellus Shale Impact Fee proposal. The handout is a summary of the Governor's proposal to impose a fee. He noted that there are also many web sites with this information on them including www.capitolwire.com and www.politicspa.com. Also provided was a handout laying out the "Next Steps in the Environmentally Safe and Economically Efficient Development of the Marcellus Shale". This is to inform people of how the Governor plans on seeing this process through.

In the past, DeMara said that the DEP has relied on the Federal Land and Water Conservation Fund program to fund many projects. They are currently working with many of their resource partners to restore the funding. The letter provided explains what some of the partners are doing to try and accomplish this.

The last item provided, DeMara noted, is a report done for the National Fish & Wildlife Foundation entitled *The Economics Associated with Outdoor Recreation, Natural Resources Conservation and Historic Preservation in the United States*. DeMara said that for those in the natural resource field, we need to focus on the economic benefits of our parks and forests. He believes a full report is available on-line and that he provided the summary findings for those to use the data as needed. Tudor noted that the National Fish & Wildlife Foundation recently funded the Nature Conservancy to do a Comprehensive Conservation Plan for the Delaware Basin. The project is a joint effort involving **The Nature Conservancy's Delaware, New Jersey, Pennsylvania, and Eastern New York** chapters, the Natural Lands Trust, and the Partnership for the Delaware Estuary. He said that more information is available at <http://conserveonline.org/workspaces/nfwfdebasin>. DeMara believes that is connected through the Common Waters Initiative.

Boyar remarked to DeMara that last year DEP staff for overseeing the in-the-field gas operations was diminished for budgetary reasons. He questioned if that has turned around as more and more wells are coming in and wanted to know if there has been more resources brought on for monitoring. It is DeMara's understanding that there has been an additional 40 some people hired and that an office has been established in Scranton. He noted that the regional offices report to the central office and that there is more uniformity among offices. He said that there is more of a direct line from the field to the central office.

National Park Service-Upper Delaware: McGuinness announced that Ranger Bill Weber will be retiring at the end of December. He stated that he has been here for many years and has mastered Skinners Falls and has most likely prevented many mishaps there over the years. He added that Weber will be missed and that the Park Service will have to fill his shoes as far as managing Skinners Falls into the future.

McGuinness, Don Hamilton, and other Park Service staff have put together an event for the late Dick Albert. Albert was a dedicated water resources professional who served as a supervising engineer and as the first Basin Planner for the DRBC and as Staff Scientist for the Delaware Riverkeeper Network. Tudor noted that Albert wrote the early 1990's version of the Special Protection Waters regulations. McGuinness remarked that the new Park Service water lab in Milanville will be dedicated in his honor. A plaque is being made noting all of his Albert's contributions. The event is scheduled for October 14 at 1:00 p.m. McGuinness opened the invitation to all who would like to attend.

McGuinness said that he, Carla Hahn and Don Hamilton drove to Scranton, PA on October 4th for a meet-and-greet that Dennis DeMara set up with some Pennsylvania agencies. There were 12 people representing three different agencies present. The purpose of the meeting was to talk about the Upper Delaware River and the work that each agency is doing to uphold the River Management Plan. There were a couple of representatives there from PA DEP so they were able to discuss some issues including the Holbert Mine and how that has the potential to affect the River Management Plan as well as the river

corridor. The Upper Delaware Council was discussed quite a bit as far as being involved with the plan and with the different agencies. DeMara added that he wanted Hahn and McGuinness to meet all the state agency people. The Department of Community & Economic Development, which has funded a lot of land use planning in Pike and Wayne Counties, was there. DeMara had invited some people from Harrisburg, including a river specialist, in hopes of shedding more light on the Upper Delaware Council, the work that it does and for DeMara to assess how he could marshal the resources of the state agencies to work together. DeMara had invited the Pennsylvania Fish and Boat Commission and the Game Commission, but they were unable to attend. DeMara hopes to have future meetings and to include the UDC as well as the local counties in order to talk more specifics. McGuinness stated that in addition to getting to know each other as well as each agencies missions, this meeting was an education session. He added that it was a really good meeting.

McGuinness told the Council that in response to the five drownings on the Delaware River this year, the National Park Service has put in a \$10,000 grant request to the National Park Foundation, which is giving out up to \$10,000 to parks to help with any project, to put a water safety campaign together. They hope to start the campaign this winter and spring in order to be prepared for next summer. The main objective will be to stress the wearing of life jackets and target the diverse audience. Peckham noted that Pennsylvania just passed a law making it mandatory for life jackets to be worn on the river from November until April. McGuinness said that the Park Service is planning on matching some of the grant funds if successful. They have been working with Stuart Communications and the River Reporter staff to get ideas for a media campaign to try and get the message out about the importance of wearing life jackets. McGuinness would like to see this message getting to people where they live. He said that they are still in the brainstorming phase and if the grant is awarded we will have the funding to do this outreach outside of the basin so visitors will have already gotten the message how important it is to wear life jackets and how important is to not try to swim across the river before they arrive here. The Park Service is open to suggestions and McGuinness said he will keep Council informed if the grant is awarded and then start to put this program together. Ideas include possibly putting a billboard down by Port Jervis as visitors enter Rt.97 stating to wear your life jacket, and more permanent signs on the river in both English and Spanish warning people not to swim across the river. The Park Service wants to get anybody involved with the river on-board with this campaign. Hopefully it can make a difference next summer.

McGuinness stated that he met with Supervisor Karl Brabenec from the Town of Deerpark and that they are continuing to work, at the town's request, on the potential park boundary adjustment on the south end of the river corridor. There is talk of moving it down one half mile so that it will include Sparrowbush. There is an access in Sparrowbush that is really important for emergency access to the Delaware River and is a popular swimming area and beach. Orange County and the Town of Deerpark are attempting to obtain funding to purchase the property from the private owner. Orange County and Deerpark would then like to partner with the Park Service to provide law enforcement, trash removal and have rangers to be able to respond down there, but in order for that to be considered, they would have to be within the boundary. New York State Congresswoman Nan Hayworth had been approached for her support, which she has given, and McGuinness said that he has contacted Pennsylvania Congressman Marino's office to let him know what has been proposed. Pennsylvania would need to be involved as the boundary would have to be moved on both sides of the river and that section of the river will have to be designated Wild and Scenic in order for the Park Service to entertain it. McGuinness said that it is just in the proposal stage at this time, nothing formal. The Park Service would have to be asked by the Congresswoman to do a legislative package and then a bill could be submitted to Congress for its approval to adjust the boundary. Richardson asked if the extension would go as far as the proposed whitewater park in Port Jervis. McGuinness answered no, not even close. He said it is just half a mile below the Hawk's Nest cliff area. He continued that the area would be a great resource if it can be gotten into public ownership.

McGuinness said that the Park Service is continuing to work on the Local Waterfront Revitalization Plan with Sullivan County. There had been discussion earlier today at the Upper Delaware Roundtable meeting. The discussion focused on working with the Pennsylvania side, with Dennis DeMara, and Pike County. Heather Jacksy of the Sullivan County Planning Department is the lead on this project and she is hoping to have a draft plan out sometime in the late fall.

McGuinness took part in a meeting with the New York, Susquehanna & Western Railway public affairs specialist. They discussed opportunities to use the railroad properties in the Waterfront Revitalization planning. The NYSW representative was open to a lot of ideas that were brought up during the meeting.

McGuinness met two weeks ago with PA Senator Lisa Baker to introduce himself and to talk about the river and his vision, the Park Service, the River Management Plan and the Upper Delaware Council. He provided her with copies of the RMP and they discussed the future of the river. Because the Holbert Quarry is in her district, McGuinness advised her of the status of this issue and asked her for her support in resolving this issue.

McGuinness advised Council that at this point it looks like the Park Service may see a 3% cut to their budget for FY 2012. That would amount to \$170,000 less than last year. He did state that there could, however, be a 5% or 7% cut. They are currently operating under a Continuing Resolution until the middle of November and won't know what the budget is going to be until Congress tells us. McGuinness is counting on the 3% cut right now which is not welcome but could be managed. Ramie questioned McGuinness if that 3% was just for his unit or Dept. of Interior wide. McGuinness said that 3% cut would affect all National Parks.

Niflot asked McGuinness if there will ever be a time when life preservers will be mandatory to wear, thereby cutting down the drownings to zero. McGuinness replied that is a good question and he would probably say yes, but it would have to have public support and that it would be difficult to enforce. He has the authority to implement that rule now. One of the questions that would arise would be if you would be required to wear a jacket to swim. Niflot noted that of all years to try to do this, a year with five drownings might be a good time to address it. He suggested McGuinness think about it. Harrison pointed out that she thought that none of the five drownings were boating-related. McGuinness said that three were swimmers, one was a fisherman and one was a boating accident. McGuinness reiterated that it was a good question and that maybe it could be further discussed and perhaps get some advice from Council. He noted that most of the liveries are in support of it. He added that when they put their customers in a boat, they do tell them they are required. Boyar added that the public safety campaign makes a lot of sense as people need to be conditioned. He believes that more people are wearing life jackets, that attitudes are changing and perhaps the campaign may be a precursor to life jackets being mandatory. Peckham commented that this year, the way the water was half the time, people would be foolish to be in it. He said it was much higher than normal all year. McGuinness said the concept of a re-designed life jacket, one that is not bulky, would be a good idea. He does feel that right now there would not be public sentiment to support everyone being mandated to wear a life jacket. Niflot pointed out it would probably never be 100% accepted. He suggested in the meantime, how about a skull and crossbone in the areas where people have lost their lives on the river as a reminder to people.

UDC Executive Director's Report: No report in the absence of Director Bill Douglass.

Old Business: UDC Committee Memberships – Richardson noted that this was already discussed, but said that he'll ask Council members again to please consider serving on one of the committees. The Committees certainly need you.

New Business:

Draft letter to the Federal Highway Administration: Pond Eddy Bridge Replacement Project

Memorandum of Agreement: Richardson said that this was discussed in committee and although we have some concerns about signing it, he believes the feeling is we should sign it while noting our concerns in the accompanying letter. A motion by Boyar seconded by Rajsiz to approve sending the letter was carried unanimously.

UDC Resolution 2011-09 Awarding the Printing of “The Upper Delaware” Newsletter to Courier Printing Corp. for FY 2012: A motion by Boyar seconded by Rajszyk to approve Resolution 2011-09 was carried unanimously.

UDC Resolution 2011-10 Approving the Technical Assistance Grants for FY 2012: A motion by Rajszyk seconded by McKay to approve Resolution 2011-10 was carried unanimously.

Technical Assistant Grant (TAG) payment approvals: A motion by Rajszyk to approve the payment of TAG 2009-01, Damascus Township for Training and Installation for E-mail Document Server in the amount of \$1,000; TAG 2009-04, Town of Lumberland for Zoning Re-write to Coincide with Updated Comprehensive Plan in the amount of \$3,500; and TAG 2009-07, Town of Cochection to Update Town’s Zoning Law to Address Green Building Standards & Natural Gas Drilling/Exploration in the amount of \$4,000, seconded by Boyar, was carried unanimously.

Other: Peckham stated that he wanted to re-emphasize the previous discussion of the UDC possibly being involved in an early warning system outline that all the towns could follow. Boyar noted that the Town of Highland and Shohola Township are both working on this type TAG project. They will work together and see what they can come up with. If they come up with a good template that the other towns can use, they will share it. Peckham feels that the UDC should be involved. Richardson said that this has been discussed and that whatever comes out of these projects, the UDC may need to enhance in some way.

Public Comment: Jim Serio wanted to know if the raw data being collected by the Park Services’s water quality datasondes will be made publically available. McGuinness said that it would be eventually on-line. They are working with the DRBC and USGS on this. Their vision is that the ones linked to the satellite will someday be live. Serio said he is asking this question as NYC is not making its data available.

Anne Willard of *The River Reporter* asked Tudor if the current lawsuits against the DRBC have any chance of delaying the implementation of rules. Tudor thinks the next meeting with the judge is later this month. Each of the parties are taking a position and asking for an early dismissal of the case, so we just have to wait and see what the judge does. Willard asked if in theory there was a chance of there being an effect and Tudor answered yes.

A motion by Rajszyk, seconded by Rando, to go into Executive Session to discuss legal matters at 9:16 p.m. was carried. A motion by Rajszyk, seconded by Rando to come out of Executive Session at 9:50 p.m. was carried.

A motion by Rajszyk, seconded by Conway, to pay Attorney Zimmerman’s bill was carried with one nay by Peckham and two abstentions by McKay and Canfield.

Adjournment: A motion by Rajszyk, seconded by Peckham, to adjourn the meeting at 9:51 p.m. was carried unanimously.

Minutes prepared by Cindy Odell, 10/19/11