

UPPER DELAWARE COUNCIL MEETING MINUTES

Nov. 4, 2010

The UDC held its monthly meeting on Thursday, Nov. 4, 2010 at the Council office in Narrowsburg, NY. Chairperson Harold Roeder Jr. called the meeting to order at 7:31 p.m. A motion by Rajsz seconded by Rando to approve the Oct. 7 meeting minutes was carried. There was no public comment on the agenda.

In attendance: Town of Hancock-Fred Peckham, Town of Fremont-Jack Niflot, Town of Delaware-Harold Roeder Jr., Damascus Township-Dolores Keesler, Town of Cohecton-Larry Richardson, Town of Tusten-Sue Sullivan, Berlin Township-Lillian Russell, Town of Highland-Andy Boyar, Town of Lumberland-Nadia Rajsz, Town of Deerpark-Mel Decker, Shohola Township-Scott Rando, Westfall Township-Peter Kenny, State of New York-Bill Rudge, and National Park Service-Sean McGuinness. Also in attendance: Tony Ritter-Town of Tusten Alternate; Jim Serio-Town of Hancock Alternate; Jim Rodgers-Town of Fremont Alternate. Absent: Lackawaxen Township; Commonwealth of Pennsylvania; Delaware River Basin Commission.

Committee Reports: The committee reports were given by the committee chairpersons and were based on the meeting minutes. They included: Oct. 19 Water Use/Resource Management by Jim Serio; Oct. 26 Operations by Harold Roeder Jr.; and Oct. 26 Project Review by Fred Peckham.

Status Reports

Delaware River Basin Commission: The Delaware River Flow and Storage Data for October were handed out. The New York City Delaware River Basin combined reservoir storage was at 79.1%, with Cannonsville at 75.4%. The DRBC issued a news release Nov. 1 indicating that it had lifted the lower basin drought warning. Also provided to the members was a Memorandum dated Sept. 15, 2010 from DRBC Exec. Dir. Carol Collier regarding "Water Resources Plan for the Delaware River Basin – FY 2010 Achievements". September 2010 marks the sixth anniversary of the Water Resources Plan for the Delaware River Basin (Basin Plan). The memorandum from Collier reports on the basin plan progress in FY 2010. Some topics highlighted included: Natural gas drilling; Flexible Flow Management Plan; Delaware River Basin Flood Analysis Model; Floodplain Regulations; Healthy Forests-Healthy Watersheds.

NYS Dept. of Environmental Conservation: Bill Rudge thanked the UDC for its patience since he has not been able to attend the meetings due to fiscal constraints. He hoped the coming year would be better. Rudge noted DEC is still undergoing staff changes due to fiscal issues. Early retirements are being exercised. Jack Isaacs of the Stream Protection Program and Peter Nye of the Endangered Species Unit (bald eagles), were two dedicated and highly respected employees that have retired. There has been a vacancy at the state level in the Bureau of Fisheries and that was filled by Phil Holbert, who will be the new Bureau Chief of Fisheries within the Fish, Wildlife and Marine Resources division. Holbert faces struggles with the continuation of the state fish hatcheries due to staffing cuts.

DEC adopted this week final regulations to implement Article XI of the Environmental Conservation Law that deals with the protection of endangered and threatened species of fish and wildlife. Draft regulations were published this fall and many public comments were received and taken into

consideration. Rudge said he'd send Coney the links to the new regs. These regs implement existing law and layout a predictable process on projects for applicants that may have projects affecting these species.

Rajsz inquired as to the status of the Unit Management Plan for the Mongaup Valley Wildlife Management Area. Rudge explained it's been a more difficult time now with all the layoffs to allocate staff to put time in with this project. Soete asked about the status of the Barnes Landfill. Rudge replied DEC has referred the case to the NYS Attorney General's office. They need to try and identify the "official" owner now of the property. There are no problems on site at the present time that DEC is aware of, Rudge indicated.

Also handed out was a DEC news release announcing the adoption of the state's Hazardous Waste Facility Siting Plan. The plan, required by state law, is primarily intended to assess the state's capacity for managing hazardous waste in accordance with state and federal law, and to assure adequate availability of industrial hazardous waste treatment, storage and disposal facilities into the future. Further information is on the DEC website, www.dec.ny.gov.

PA Dept. of Conservation and Natural Resources: Coney reported for Dennis DeMara: DeMara would not be attending the UDC meeting since DCNR is receiving an award this evening in Bethlehem, PA from the Delaware and Lehigh National and State Heritage Area. DeMara wanted to relate that the Community Conservation Partnership grants have been announced and 189 projects were funded for \$23.3 million. There were four DCNR news releases handed out as well covering the grants, gas drilling moratorium on sensitive state forest land, recognition by the Kennedy School of Government at Harvard University for its "Bright Ideas Program", and DCNR's establishing policy further protecting state parks-forests from potential gas well development.

National Park Service-Upper Delaware: Supt. Sean McGuinness reported he had attended today in the Hancock area the Friends of the Upper Delaware River's (FUDR) conference on flow management issues. There was good discussions and most all of the agencies involved attended such as the NYS DEC, NYC DEP, U.S. Fish and Wildlife Service, Trout Unlimited, and others. The group is trying to put together the next steps in relation to the Flexible Flow Management Plan that is expiring in May of 2011.

He attended as chair the Wilderness Conference at Point Reyes National Seashore. Last week he attended the NPS Superintendents' conference for the Northeast Region and National Capital Region that included about 150 attendees. Director Jarvis was a speaker. The meeting focus was on the four pillars that the Park Service is pursuing now: Workforce building; Service relevancy to now and to the future; stewardship of resources towards the next Century; and education and interpretation. The Deputy Director addressed energy issues in this Nation and to look for clean and sustainable energy uses within the Park System. The Secretary of the Interior is very interested in reducing our dependency on foreign oil and such. There was a cautionary note to do what the superintendents needed to do to protect the parks but at the same time the Dept. of Interior is also responsible for trying to develop ways to produce clean energy. The Marcellus and the Upper Delaware was mentioned at the conference.

McGuinness also attended the Water Resources Assn. conference and was on a panel with DRBC, Nature Conservancy, Common Waters, and the Pike Co. Planning Office that facilitated discussion on the importance of protecting headwater watersheds and there was a good two-hour discussion among the 40 attendees.

McGuinness reported on the federal summit held by the DRBC federal representative with the various federal agencies that would have a stake in DRBC decisions. These summits are held about every two years. Some of the recommendations: federal agency leadership must evaluate the existing and future available resources to support actions associated with Marcellus Shale, look at the potential for increased work load support, increased responses realizing reduced budget conditions; develop a matrix of federal agency responsibilities as it relates to Marcellus Shale activities; collaborative working conditions to develop a GIS application to evaluate project applications against known triggers for federal agency involvement as it relates to Marcellus; and develop and implement an inter-agency team responsible for providing guidance to the federal commissioner pertaining to the federal position on DRBC actions, the team will also serve as a information conduit between agencies on DRBC issues and facilitate the formation of sub-teams for special projects such as a monitoring council and the USGS impact study scoping team.

Continuing with the summit report, McGuinness noted that each agency had stipulated its top priority area of concern for now and into the near future. They included: EPA – hydraulic fracturing and

its environmental impacts; Fish & Wildlife Service – impact to terrestrial and aquatic habitats; NPS – night skies program, noise, impacts to resources, cumulative impacts study relative to water quality; NRCS – protecting private landowners’ rights; USGS – provide the science necessary to make decisions; National Weather Service – can assist with water related items and the impact decisions as they relate to Marcellus Shale; FEMA – to learn about the issues and how they relate to emergency response; U.S. Forest Service – forest conservation and how that transcends with Marcellus Shale. The DRBC provided an overview of the footprint of the Marcellus Shale play. The federal agencies also provided priority issues besides Marcellus Shale. Peckham and Douglass asked for document copy of what Sean reported.

McGuinness reported NPS met with DEC Region 3 and 4 staff in September. UDC was in attendance. The outcome of the meeting basically broadens the scope of information sharing and coordination relating to Upper Delaware River matters.

Russell asked McGuinness that in his opinion, would he be able to keep the gas drilling out of the river corridor. McGuinness indicated that he was using his leadership role to try and educate folks about what could happen if drilling happened in the river corridor, and that it’s actually up to the UDC and the towns/townships to make the right decisions. There is a lot of discussion on this matter as I reported.

Sullivan asked McGuinness if the federal summit meetings were helpful in his efforts to protect the resource we have or was it making it more difficult. McGuinness felt it was helpful to have the agencies educate each other about all the issues. They all realized they needed to not duplicate efforts to address the issues plus knowing who to contact in a given situation is helpful. USGS is leading the way on the science part of Marcellus. Richardson asked how many parks would be affected by any drilling activity. McGuinness mentioned about 40 in the northeast region.

UDC Executive Director’s Report: No report at this time.

Old Business None

New Business

UDC Resolution 2010-11 Awarding Printing/Mailing of the UDC Newsletter: Members reviewed the resolution that came out of the Operations Committee. The cost for newsletter production will be less this fiscal year due to a reduction in the number of copies needed. Roeder indicated that eventually they’d like to have the newsletter read online to cut costs. The newsletter vendor remains the same, Courier Printing Corp., with the cost for two annual issues at \$4,188., not including postage. A motion by Richardson seconded by Rajsiz to approve the resolution was carried.

Letter to UDC from Aquatic Conservation Unlimited Regarding FFMP: The members were provided with a letter from Aquatic Conservation Unlimited signed by Elaine Reichart. It included an attachment of “New York City’s Operations Support Tool (OST) Executive Summary” dated Oct. 8, 2010, a white paper prepared for the Delaware River Basin Supreme Court Decree Parties. The OST is a forecast-driven simulation and analysis tool that will provide City operators and managers with probabilistic predictions of future system status based on simulation scenarios. The purpose of this paper is to describe OST and discuss the potential that it offers for supporting and enhancing the current releases program from Cannonsville, Pepacton and Neversink Reservoirs of the Delaware River Basin.

Letter Copy from Todd Eachus, Majority Leader, PA House of Representatives to DRBC: The members, at the request of Chase, were provided with copy of a letter Rep. Eachus issued on Oct. 7, 2010 to DRBC. Representative Eachus was writing to the DRBC to encourage it to reevaluate its current protocols and develop a rational, environmentally sound water release plan. He felt the current water release protocols listed in the Flexible Flow Management Program (FFMP) put the exceptional trout fishery in jeopardy.

UDC Comment Letter to DRBC - Delaware River Water Release Plan: The members had received the UDC comment letter to DRBC prior to the meeting. The letter came out of the Council’s Water Use/Resource Management Committee who had spent six months reviewing issues regarding the FFMP and flows. There was lengthy discussion of both pro and con for issuing the letter at this time. Serio and others felt the DRBC should have the letter sooner rather than later since the Regulated Flow Advisory

Committee was meeting on Dec. 14 and discussion of the FFMP, which expires in May 2011, will be part of the issues. Other members felt that the WU/RM Committee members should review the letter again as there was a difference of opinion among the members on the committee regarding the letter. A motion by Richardson seconded by Rajsz to send the letter back to committee was made. Further discussion followed. A motion was made to send a letter to DRBC that a comment letter was coming. The members voted on the first motion; it carried with one opposed. Members provided some items that could be changed and some items that could be included in the letter. A motion by Richardson seconded by Rajsz that a letter be sent to DRBC that a comment letter will be forthcoming was carried.

Appointment of the Nominating Committee for 2011 Slate of Officers: Roeder suggested the following members to serve on the Nominating Committee to produce a slate of officers for UDC for calendar year 2011: Jack Niflot (Town of Fremont); Larry Richardson (Town of Cochection); and Fred Peckham (Town of Hancock). No one opposed the appointments. The Nominating Committee will issue its report at the December UDC meeting.

NYC DEP Briefing to the NYC Water Board on the Natural Gas Impact Assessment Project (Hazen and Sawyer Report, Sept. 25, 2009): Sue Sullivan provided to the members copies of the "Conclusions of Rapid Impact Assessment" section from the Hazen and Sawyer report for the NYC DEP regarding gas drilling in the NYC reservoir watershed. Sullivan noted that we (UDC) need to protect the health and safety of the residents we represent. These issues need to be part of our discussion. NYS DEC is not testing our water. When we commented in 2009 we were one of 15,000 comments to the NYS DEC. Our letter listed 25 points of concern and none of those points have been addressed. She mentioned that zoning is an issue for all the towns. In Tusten, we have a conservation council that did some work with a UDC TAG grant. We collected topo maps from DEC. She offered that anyone that wants to know more about this to contact her.

Public Comment

~ Marian Handler said she was concerned about drilling. She went to Dimock, PA to support them in having water piped into the community since their water was contaminated conceivably from drilling. She noted that when they got out of the car in Dimock she could hardly breathe due to the smell. She does have environmental allergies. She said it wasn't like that a year ago when she visited. She felt the gas companies should have met with the Dimock residents. There were guards with guns at the meeting in Dimock and she felt that was totally unnecessary. Bernie Handler explained that there was an incident with Cabot and a homeowner and now Cabot uses armed guards.

~ Ritter asked Rudge (DEC) when the draft Supplemental Generic Environmental Impact Statement on gas drilling would be available; Rudge had no dates.

Adjourn A motion by Kenny seconded by Rando to adjourn the meeting at 9:22 p.m. was carried.

Carol Coney, Office Manager