

UPPER DELAWARE COUNCIL MEETING MINUTES

March 5, 2009

The Upper Delaware Council held its monthly meeting Thursday, March 5, 2009 at the Council office on Bridge Street in Narrowsburg, NY. Chairperson George J. Fluhr called the meeting to order at 7:30 p.m. A motion by Bowers seconded by Roeder to approve the Feb. 5 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-Charles Wieland, Berlin Township-Andy Dean, Town of Highland-John C. Sundholm, Town of Deepark-Phil Chase, Lackawaxen Township-John McKay, Shohola Township-George J. Fluhr, Westfall Township-Alan Bowers, Delaware River Basin Commission-Clarke Rupert, and National Park Service-Vidal Martinez. Absent: Town of Lumberland, State of New York, Commonwealth of Pennsylvania. Others present: Town of Fremont Alternate-Jim Rodgers; Town of Hancock Alternate-Jim Serio. PA DEP – Bill Manner, who reported for Pennsylvania Representative Dennis DeMara.

Committee Reports: The committee reports were provided by the committee chairpersons based on the meeting minutes: Water Use/Resource Management Feb. 17 by Wieland; Operations Feb. 24 Fluhr; and Project Review Feb. 24 by Roeder.

Status Reports

Delaware River Basin Commission: Clarke Rupert referenced the handouts he provided. The Delaware River Flow and Storage Data as of March 5 indicated that the combined NYC Delaware River Basin reservoir storage was at 85.5% of capacity. The Cannonsville Reservoir was at 90.1%; Pepacton 85.2%; Neversink 73.7% and Rondout 96.1%. This storage is 39 bg below a year ago, and 5.6 bg above the daily storage median. The streamflow for February at Montague was above normal because ice jams raised the flow in some instances.

The Mean Areal Precipitation charts were showing that for the period Jan. 1 to March 3, 2009, the basin was below normal, with Delaware County 1.7 inches below and Sullivan County 2.2 inches below. During the month of February, several lower basin counties were greater than 75% below normal. Roeder asked what the period of record was for Sullivan County. Rupert indicated he would check with the National Weather Service who provides the precipitation charts. (Note to minutes: According to the NWS, the period of record is 1971 to 2000; they use a 30-year normal that gets updated every 10 years.)

The next meeting of the Delaware River Basin Commission will be March 11. The agenda will be listed on the DRBC website. The Floodplain Regulations Evaluation Subcommittee will meet March 17. This is a subcommittee of the Flood Advisory Committee tasked with reviewing the existing floodplain regulations within the basin. Recommendations should be presented to the DRBC Commissioners this year. The DRBC floodplain regulations were last updated in the 1970s. The Water Quality Advisory Committee will meet March 30.

Further information on topics discussed by Rupert can be located on the DRBC website at www.drbc.net.

NYS Dept. of Environmental Conservation: Bill Rudge could not attend but forwarded news releases of interest to the Council. These included:

>"Commissioner Grannis Calls on N.Y. Communities to go 'Climate Smart'". Grannis encouraged local governments to join in the fight against global warming by adopting a new Climate Smart Communities

Pledge. The Pledge outlines a voluntary 10-point plan for reducing a community's greenhouse gas emissions. By following the plan, communities large and small can play a key role in fighting global climate change. The availability of the Climate Smart Communities Guide, which provides the tools to help communities meet the pledge, was also announced by Grannis. The pledge and the guide can be found on the Internet at www.dec.ny.gov/energy/50845.html.

>"Deer Harvest Climbs Slightly in 2008 Season". Hunters harvested approximately 223,000 deer in the 2008 season, a 2% increase over the previous season, Commissioner Grannis has announced. The annual deer harvest report also showed that more than 15,000 14-and 15-year-olds signed up for the new Junior Big-Game License, and that researchers detected no cases of Chronic Wasting Disease. More detailed data is available on the DEC website, www.dec.ny.gov, link to press releases.

PA Dept. of Conservation and Natural Resources: Dennis DeMara could not attend the meeting, but Bill Manner of PA DEP provided his report as well as information relative to the Dept. of Environmental Protection.

DCNR – the grant application deadline for the Community Conservation Partnership Program is April 22, a reminder from the previous meeting. Gov. Rendell has accepted the resignation of DCNR Secretary Michael DiBerardinis effective April 3, 2009.

DEP – The Water Resources Advisory Committee will review in April the Permit-by-Rule stormwater permit condition allowing a 100-foot riparian forest buffer requirement. The next round of the Growing Greener grants regarding stream restoration will be opening soon. A gas inspector will start work Monday at the Williamsport office for Northeast PA. The inspector deals with the well hole itself. Douglass inquired about a proposed second gas well in Wayne County, and Manner indicated that it would be a test well with no fracking. Rupert mentioned that they won't need a DRBC permit for this test well, which is in the Oriskany sandstone formation.

National Park Service-Upper Delaware: Superintendent Vidal Martinez passed along remarks made by new Secretary of the Interior Ken Salazar at the March 3 ceremony marking the 160th anniversary of the Department of the Interior. Martinez expressed his opinion that he was impressed with the new chief and that he felt Salazar "gets it" relative to what's needed for resource protection. Salazar talked about the history of DOI which mirrors the story of our nation. President Teddy Roosevelt expanded our national parks, laying the foundation for our modern day National Park System. President Franklin Roosevelt's Civilian Conservation Corps put three million people to work on conservation and construction projects in our parks, refuges and public works around America. There will be an unprecedented commitment to preserving America's treasured landscapes. Martinez noted that President Obama attended the ceremony at the DOI building in Washington, D.C. to lend his voice to the celebration. The Secretary of the Interior wants to be pro-active in protecting vital resources, according to Martinez. Martinez mentioned that there should be \$3 million available for system-wide NPS maintenance and cyclic projects and hiring personnel in this fiscal year.

Martinez said the NPS Core Operations Analysis project would be a way of looking at current operations to see if we're doing essential or "core" work. It helps us obtain more value for dollars. We'll consider how we do our work and doing it better. We'll also look at evaluating criteria for increased funding. Since the Upper Delaware Council is part of the budget, staff has been invited.

Mongaup Welcome Center – the NPS is continuing its discussions with the Town of Lumberland, NYS DEC and Alliance Energy regarding a welcome center at the Mongaup River area of NYS Route 97. The NPS has been asked by the Town to present a public hearing regarding the project. An early warning system for dam breaks would need to be installed in the area. There is no system there now and it would certainly benefit everyone to have a system in place—the town, DEC and public. They are considering applying for a grant from NOAA (National Oceanic and Atmospheric Administration) for a remote area warning system. The grant deadline is March 27. This grant application has to come through a state agency and DEC would take the lead here. Support letters for the grant from stakeholders would be appreciated. Bowers noted that a support letter would have to come through one of the UDC committees to meet the March 27 deadline. He made a motion seconded by Wieland that the Council gives approval for a support letter to come out of committee to meet the application deadline; the motion carried.

UDC Executive Director's Report: Bill Douglass reviewed the newspaper articles copied and handed out to the members:

▪ *Wayne Independent* “DRBC rep grilled over gas drilling”. Discussion from a Penn State Cooperative Extension forum in Honesdale regarding gas drilling. Concerns over DRBC becoming a “bottleneck” in the regulatory process. DRBC explained if an active natural gas well is not properly sealed with concrete casing, it could contaminate an entire community’s drinking water. The DRBC has two permit applications on file for Marcellus-related activity.

▪ *River Reporter* “Preparing a pad”. Chesapeake Appalachia is currently preparing a gas-drilling pad along Fox Hill Road in Oregon Township in northern Wayne County. The well is targeting a deposit called Oriskany sandstone and not the Marcellus Shale and does not require a large amount of water for drilling because the rock that holds the gas is not as dense. DRBC was not approached for a water withdrawal permit. The PA DEP has not approved a drilling permit as yet. A DEP permit was issued to prepare the site. This will be the second gas drilling operation in Wayne County.

▪ *River Reporter* “Sailing in the Cannonsville Reservoir?” Starting Memorial Day weekend, along with the rowboats, the Cannonsville Reservoir will also be hosting sailboats, canoes, kayaks and johnboats or sculls. It’s part of a three-year pilot program designed to open the reservoir to more members of the public and help spur economic development in the area. Boats with motors will not be allowed on the reservoir. The NYC DEP owns the reservoir.

▪ *River Reporter* “Manhattan politician releases gas drilling report”. Borough President Scott Stringer issued a report that documents dozens of incidents in nine states where hydraulic fracturing, or fracking, has resulted in leaks, spills, water contamination and explosions. Stringer said that fracking fluids present a threat to the City’s water supply. He’s calling for drilling companies to reveal the ingredients of the fracking fluid they use, and he wants fracking fluids to be tracked underground to determine where they are going.

▪ *River Reporter* “Millennium Pipeline agrees to fine, other penalty”. Millennium Pipeline has agreed to pay \$200,000 in fines and to spend \$1 million to pay for independent specialists to monitor the work of the company as it finishes work on the pipeline this spring and into next year. The majority of the work on the project was completed in 2008. The NYS DEC issued a stop-work order and other fines at some sites. A consent order has been signed by DEC and Millennium. The newspaper also carried a companion article entitled, “A pipeline nightmare: Living with disruption” that covered first-person experiences with the pipeline project in Hancock.

Also provided to the Council members was the NYC DEP Snow Survey #3, 3-4-2009. Coney mentioned that some members had requested a copy of the most recent snow pack survey. She requested and Soete downloaded the current information this morning. The survey compared what the snow pack in inches would be to water in the billion gallons for all reservoir areas East- and West-of-Hudson; the Catskill System; the Delaware System; and the Delaware Basin. The next survey is scheduled for March 18. Rupert commented that the DRBC takes those snow pack numbers and reservoir curves into review and this scenario triggers the amount of releases under FFMP based on 50% of snow/water equivalent above reservoirs. For example, one-half would be included in release schedules to determine how much water is released from the reservoirs.

Old Business None

New Business

Proposed HazMat Training Session with Central New York Railroad: Fluhr referenced Martinez’s comments on the emergency warning system for the Mongaup area discussed earlier. He felt that the emergency management people and the first responders would be the first people at site if a dam emergency threatened the area. Keesler inquired about the role the fire departments would have. Sundholm mentioned that that section of NYS Rt. 97 was on a major north-south thoroughfare in the River Valley. Bowers said the location is considered an inundation area because of the Rio system and dam failures. Any emergency would need an immediate notice to all that would be impacted in that area. Fluhr added that we also have railroad issues through there if a train wrecks with hazardous materials on-board. There’s an access situation. With the last train wreck in Shohola, it was three hours before we could get the railroad people working with the township. Douglass noted that PPL has an emergency system in place for the Lackawaxen River area.

Fluhr commented that years ago, the UDC hosted an emergency responders meeting with CONRAIL that resulted in the production of an emergency response guide for all the stakeholders. The

Central New York Railroad was reviewing this guide with intentions of updating it, but no response has materialized. Fluhr asked for a motion to have UDC host another railroad meeting with emergency response personnel as well as any state or federal agencies that would need to be involved. A motion by Bowers seconded by Roeder for UDC to coordinate this meeting was carried.

Natural Gas Drilling/Exploration: There was some discussion regarding the gas drilling/exploration in the area. Roeder asked Manner what PA DEP does on drilling and Manner indicated that they permit the site itself and take into account wetlands, roads, stream crossings and such things. Peckham indicated that NYS DEC will be doing the same sort of thing but we're waiting for them to issue the supplemental GEIS for gas drilling. Roeder asked if DRBC was doing the same things. Rupert mentioned that the state regulates the well casing and such. In the newspaper clip that was handed out it referred to a 4 to 6 months review process. That's DRBC's timeline for processing all complete applications, not just those related to gas drilling, and is based on the total number of applications we have to review and number of staff to do the work. Right now DRBC has a 100 docket application backlog. For those interested, the list of pending applications is on the DRBC website. When the application is ready to be placed on a Commission meeting agenda for action, the date is noted in the application chart that's on the web. DRBC still is discussing the regulatory process with the states. DRBC has two Marcellus Shale natural gas drilling related applications under review—Chesapeake Appalachia's East Branch Delaware water withdrawal request and approval of Stone Energy's Matoushek well in Wayne County. The Matoushek well application, received on Feb. 13, was submitted as part of the settlement agreement reached between DRBC and Stone Energy last December to resolve the company's failure to obtain Commission approval before drilling the well. Stone Energy also paid a \$70,000 penalty.

Peckham asked if DRBC was still formulating their gas drilling process. Rupert noted DRBC doesn't want to duplicate what the states are doing. Peckham asked how the DRBC permit worked. Rupert said the states and DRBC each has its own requirements. As to the pending surface water withdrawal application, DRBC could act on that before the state GEIS process is completed. Right now we need more information from Chesapeake which has not been submitted.

Manner indicated as to the well itself, they'll need a water addendum, DEP reviews, and it has built in River Basin Commission approvals. We'll need DRBC approval in order for PA DEP to issue water addendum permits. Peckham wondered if a gas company could use Susquehanna River Basin water withdrawal for a well in New York State if the well is closer to that watershed. Manner said he couldn't talk to the Marcellus procedure, but DEP does do inter-basin water transfers. Chase commented this was a good discussion but he would've liked to have the New York State rep here. Coney noted that DEC is on travel restrictions due to state budget constraints.

Fluhr offered that the information at this meeting was informative and the press could use it, but without the Upper Delaware Council providing this forum it wouldn't necessarily get out to the public. These meetings are providing a public service. McKay mentioned that Soete's listserv on this issue is also helpful in informing the public.

Soete wondered if the PA DEP and NYS DEC regulatory procedures would be about the same with gas drilling issues. Rupert noted that DRBC staff is still talking to New York State. At the State's request, DRBC is not processing Marcellus shale well drilling applications in New York due to the pending supplemental GEIS. The DRBC has not had a role in gas drilling in the past. We've become involved in the last year because of the process used to extract gas in the Marcellus using large quantities of water. The Susquehanna River Basin Commission deals with water quantity; DRBC looks at both quantity and quality, and its permitting decisions are made during a public meeting. The Susquehanna River Basin Commission already has a permit-by-rule process in place and specific staff for gas drilling permits; the DRBC does not.

Public Comment

◇ Serio mentioned that at the Town of Hancock meeting the impacts of gas drilling truck traffic was discussed. A gas company representative was in attendance. Most damage to roads happens with the fracking process rigs. The rigs come in for two-to-three days, and 200 plus trucks are bringing in water to the site. The gas companies are looking for road regulations from the towns so they know what's needed regarding the mechanism for road maintenance.

Fluhr added that in Pennsylvania, they post and bond the roads with a township permit. Pictures are taken of the road conditions before and after a project. Each township is different.

Serio explained that the municipalities should have regulations in place before drilling starts. Also logging and bluestone trucks would be considered. Richardson commented that five New York towns, through a Technical Assistance Grant from the Council, are working on this so the towns know what should be in place ahead of drilling. They've interviewed engineering consultants for a roads assessment study. Soete noted that the Town of Hancock road plan was funded in part by a Council TAG also.

Peckham offered that loggers and stone cutters are a major business in Hancock and some take offense to these road permits for truck traffic.

Schultz asked what happened in Dimock. Manner answered that there was a home water well explosion and gas drilling was going on close by; DEP is still investigating the incident. Rodgers asked if there was DRBC oversight relative to the Oriskany sandstone. Rupert responded that DRBC is currently not reviewing Oriskany wells because they don't use as much water as wells in Marcellus shale formations, but understands that Pennsylvania will review. Rodgers asked when the docket for the East Branch Delaware water withdrawal application would be heard. Rupert said we'll put the meeting notice on the DRBC website with draft dockets listed for review at least 10 days prior to the actual meeting. The public can testify on draft dockets at the meeting or submit written comments beforehand. Information would be on the website.

◇ UDC draft comment letter to new U.S. Secretary of the Interior, siting of major electric transmission lines and the National Wild and Scenic Rivers Act: Fluhr announced that a draft comment letter to the U.S. Secretary of the Interior, as discussed in committee, was handed out to the members so they could review the letter prior to the Operations Committee meeting.

Adjourn A motion by Roeder seconded by Bowers to adjourn the meeting at 9:03 p.m. was carried.

Carol Coney, Office Manager