

Upper Delaware Council  
**WATER USE/RESOURCE MANAGEMENT COMM. MEETING MINUTES**  
July 19, 2011

Committee Members Present: Tony Ritter, Phil Chase, Andy Boyar, Scott Rando  
Committee Members Absent: John McKay, Jay Shafer  
NPS Partner: Don Hamilton  
Staff: Bill Douglass, Dave Soete, Laurie Ramie  
Guests: Anne Willard

The UDC's Water Use/Resource Management Committee held its monthly meeting on Tuesday, June 21, 2011 at the Council office in Narrowsburg, NY. Chairperson Ritter called the meeting to order at 7:05 p.m. A motion by Boyar seconded by Rando to approve the June 21 meeting minutes was carried. There was no public comment on the agenda.

**New Business**

**NYS DEC's 7-8-11 Release of Preliminary Revised Draft SGEIS on Natural Gas Regulations:** Boyar observed that New York State's draft Supplemental Generic Environmental Impact Statement on Natural Gas Regulations is coming out in sections. Soete observed that the current document is over 1,000 pages. Boyar has heard that the final document is expected to be approximately 1,300 pages. Ritter noted that there will be a 60-day comment period for the public. Ramie wondered when that would begin, when the full document is out? Soete said we can check on that.

**Lackawaxen Township Supervisors' Expected Vote on Holbert Quarry, 7-20-11, 6:30 p.m.:** The committee received a handout of correspondence from Ronald K. Parker, a resident of St. Vincent's Pointe in Lackawaxen, addressed to the Lackawaxen Township Board of Supervisors with a copy to the UDC. The July 15, 2011 letter asked the supervisors to vote against the expansion of the Holbert quarry and highlighted five issues for their consideration. Ritter said he understands that the UDC was not allowed to speak at the June 8 public hearing on Holbert Bros. Bluestone's conditional use variance request. Hamilton confirmed that the National Park Service and UDC were there, although they had very little advance notice of the hearing. Douglass said that a determination is expected to be made at the Township Supervisors' July 20 meeting. Soete remarked that the UDC sent a very explicit comment letter as approved at the July 7 meeting and therefore doesn't need to take any further action at this time. Rando said that an approval would be the last step before non-conformance with the River Management Plan. If that occurs, NPS may pursue a legal option. Hamilton stated that the applicant asserts his quarry isn't visible from the river and there will be no drainage issues. NPS would like to request a site tour of the private property to verify those claims independently. Boyar indicated that he had been to the property on two occasions in early July and did not observe any off-color overflow, even after a lot of rainfall, or hear any operational noise. He didn't see anything that was environmentally troubling, but acknowledged that detecting such problems is not his area of expertise. If the proposed development is in conflict with the River Management Plan, however, that's a different story. Rando said he walked some of that area as a member of a ground team searching for a missing person. It's true that one can't see the quarry itself due to the topography, but he believes this expansion would push it toward the river where it starts sloping down. Ritter asked if this is an open-and-shut case since the land is located within the river corridor. Boyar said he believes Lackawaxen Township should have reached out to UDC and NPS to get their perspective on this river corridor issue, particularly due to their status as a Council member. You would think that the supervisors would want to hear from everyone before rendering a decision, Boyar added. Hamilton said that the quarry property wasn't arbitrarily included in the river corridor boundaries. It's a geographically represented line on existing maps that was based on a ridgetop to ridgetop concept of direct drainage to the river. The quarry just happens to be located there. That has been the case since the River Management Plan came out in 1986. Ritter expressed that this proposal is a challenge to the whole Plan. Soete said that Lackawaxen based its zoning on the Plan. It specifically allows for two acres of working face and two acres of ancillary use for surface mining operations. Holbert had two, 5-acre permits going. There had been a 50-year gap in the operation of the quarry. Adjacent properties were sold to homeowners who weren't anticipating this renewed activity. Hamilton agreed that while a sign indicates that the quarry has been in operation since 1870, looking at a

USGS topographical map does not reveal any quarry at that spot. Ritter asked who planned to attend the July 20 Lackawaxen Township Board of Supervisors meeting besides Douglass and Soete for UDC and Sean McGuinness and Hamilton for NPS. Rando said he hoped to attend.

**Shohola Township 7-7-11 Letter to PennDOT on Pond Eddy Bridge Replacement:** A letter signed by George C. Fluhr, chair of the Shohola Township Board of Supervisors, to George Roberts, district executive with PennDOT District 4 in Dunmore, and dated July 7 was handed out for informational purposes. The letter states, in part, “The Board of Supervisors of Shohola Township, Pike County, urges you to expedite the planned replacement of the Pond Eddy Bridge.” It reviews the history of the project, starting “about twenty years ago” when the board first wrote to PennDOT expressing concern about the safety of the residents living in Pond Eddy, PA; continuing with subsequent actions taken; weight restrictions imposed; and safety considerations. “We sincerely hope that the inadequacy and continued deterioration of the bridge will not be the cause of a tragedy in the future. Being aware of the decisions made to date regarding replacement of the bridge, we are concerned with good cause since the initiation of construction of this project has been delayed for 9 years.”

**“Dangerous Plant Found in Sullivan County” [Giant Hogweed], *Times Herald Record* 7-11-11 article:** A news article referencing the discovery of Giant Hogweed, a noxious weed that has attacked large areas of western and central New York, in eastern parts of Sullivan County in the Towns of Thompson and Liberty (Ferndale) was handed out for informational purposes. Giant Hogweed can grow up to 15 feet tall and sport large, umbrella-sized heads containing between 20,000 and 100,000 seeds. Its sap contains psoralen which can result in severe burns, blistering, sores, and scars to human skin, and blindness if contact is made with the eyes. Rando said he hasn’t seen any evidence of this plant along the Delaware River. Hamilton agreed that NPS isn’t aware of any either. The New York State Department of Environmental Conservation has a hotline at (845) 256-3111 to report any infestations.

**“River Rescuers Want Liveries to Impose Lifejacket Surcharge”, *Pike County Dispatch* 7-14-11 article:** Ritter quoted from a news article in the *Pike County Dispatch* which reported on Westfall Volunteer Fire Department Chief William Kofler’s appearance before the Westfall Board of Supervisors on July 12. The article stated that Kofler “would like to see the Pennsylvania and New York canoe and rafting liveries that utilize the Upper Delaware River place a 25-cent lifejacket fee to help financially support the volunteer fire departments that are dispatched when canoes and rafts capsize, spilling out their passengers. He estimates that the added fee could bring in \$50,000 per year to help reimburse the department for the equipment lost during rescues, in addition to keeping their diving gear and volunteer training up to date, as well as maintaining their rescue boats.” Hamilton observed that the article explained that the liveries would add the 25-cent surcharge to each customer’s liability agreement. Rando said he imagines that the Pike County Fire Federation will discuss the mechanics of how this would work at their monthly meeting. Hamilton noted that there has been some reluctance in the past for liveries to disclose their customer statistics. Currently for their Incidental Business Permits, they check off which category of use they fall under but are not required to count how many boats they put on the river per season. As a licensed fishing guide, Ritter agreed that the monitoring fee is based on staggered categories of use with no hard numbers required. Fishing guides have more stringent reporting obligations than boating liveries do. Boyar said maybe emergency services should be more inclined to document their river calls. Rando replied that mechanism is already in place in PA since it’s required to get state aid from certain agencies. They have to track the numbers and types of calls, to the point where the departments are able to figure out to the person their number of hours each year. Hamilton said that another option would be for volunteer companies to seek reimbursement from liveries when they rescue their customers on an as-needed basis, or maybe they could go after the liveries’ insurance companies to recoup their expenses. Boyar said this initiative should come from the fire companies as opposed to the UDC.

**Delaware River Flow and Storage Data Report as of 7-15-11:** The chart showed 96.9% storage in the New York City reservoirs. Ritter passed around another chart recording water temperatures. The Barryville gage hit 80 degrees by 3 p.m. that day.

**Other:** None

## **Old Business**

**Upper Delaware Scenic Byway 6-27-11 Meeting Report:** Ramie offered highlights from the June 27 Upper Delaware Scenic Byway meeting. Orange County Planning Commissioner Dave Church attended the meeting for the first time. He has been a member of the New York State Scenic Byways Advisory Board for 10 years and offered his perspective on that organization that is responsible for recommending byway designations and grant funding. Since Church's Planning Department oversees funding to outside groups, he advised UDSB to submit their 2012 budget request in July. UDSB, Inc. will request \$2,000 for byway promotional purposes. Regarding the proposed visitor center, the board reviewed a June 24 letter from Congressman Maurice Hinchey to the NYS Department of Transportation asking for DOT to provide a "written clarification" and "legal interpretation" on "whether the funding earmarked for the Visitor Center can be utilized for the proposed facility in Tusten with some administrative change or if such a site change to another Town requires further Congressional action." In the meantime, UDSB, Inc. received the state contract for its \$25,000 Feasibility Study and Concept Design for the UDSB Visitor Center at Fort Delaware on June 13, approximately one year after submitting the draft agreement. It came with a \$6,250 advance payment representing 25% of the grant. Ramie has opened a dedicated bank account for the grant transactions. The third draft of the eight municipal signs being produced under UDSB's federal grant were forwarded for review and approval as the last step of the design process. The Sullivan County Division of Public Works has agreed to accept delivery of the 2 x 4-foot outdoor panels, metal posts, and hardware at its garage on Rt. 55 in Barryville. In other business, UDSB approved a \$250 donation to the National Scenic Byway Foundation to facilitate the hiring of an intern to research and compile data on the benefits of byways as Congress debates funding for this program through a new transportation authorization program this fall. While UDSB is not a national byway, it has benefited from receiving several Federal Highway Administration National Scenic Byways Program grants over the years. UDSB also agreed to request a presentation by the City of Port Jervis Whitewater Park Committee at its August 22 meeting to hear an overview of that proposed project. Under public comment, Jane Prettyman presented a handout that she titled, "Questions to UDSB board regarding high frequency, high impact industrial truck traffic on the Scenic Byway." She believes that UDSB did not answer these questions in its Feb. 28, 2011 resolution on natural gas exploration. Prettyman asked whether UDSB has thought about how to ban this kind of traffic from the byway. She was advised that UDSB lacks the authority to call for any such ban. When the Enhancement Concept Plan was drawn up, assurances were sought that neither the state nor the byway would regulate the type of traffic allowed on NYS Route 97. Prettyman predicted that if drilling happens, it will ruin the byway. She offered alternative suggestions to requesting a ban on trucks involved in the hydraulic fracturing process. These could include banning traffic on the basis of trip frequency so as not to discriminate against a particular industry or imposing a fee of this type of traffic to mitigate impacts. The UDSB board agreed to discuss this topic further. The next monthly meeting will be Monday, July 25.

**Pond Eddy Bridge Project Consultants' Team 7-5-11 Teleconference Report:** Copies of the draft Memorandum of Agreement (MOA) for the Pond Eddy Bridge Project were provided. Comments from the concurring and consulting parties are due back by July 21 following a 15-day review period. From the July 5 Pond Eddy Bridge Project Consultants teleconference, Ramie reported that a mussel survey is expected to begin in late July as part of the required environmental clearance process. The Design Advisory Committee that will consist of local stakeholders working with PennDOT on the aesthetics of the new bridge is expected to be convened in September, following adoption of the MOA. The consultants who will be in charge of that committee were asked to provide their strategy at the next teleconference set for Aug. 2. It was also mentioned, as McGuinness described at the UDC's July 7 meeting, that the Department of the Interior has raised some concerns about the replacement plans for the Pond Eddy Bridge in terms of the specific location where the new bridge would be constructed.

**PA River of the Year 7-14-11 Teleconference Report:** Ramie referenced copies of the PA River of the Year 2011: Delaware River of Life brochure that includes the UDC's Aug. 7 raft trip on the events calendar. The PA Department of Conservation and Natural Resources provides a \$10,000 budget to support the River of the Year activities. The steering committee is now deciding how to divvy up that funding per river section or major event. A funding proposal form has been developed. On October 19, a basin-wide forum and dinner to celebrate the River of the Year designation is being planned jointly by the Delaware River Basin Commission and Pocono Mountains Visitors Bureau at the Shawnee Inn, which is celebrating

its 100<sup>th</sup> anniversary at Shawnee-on-the-Delaware, PA in 2011. The four River of the Year posters that will highlight each section of the Delaware are still pending. Soete's photograph will be featured for the Upper Delaware poster. No timetable has been given for when the posters will be printed and available for distribution. Updates on this entire project can be found at [www.delawareriveroftheyear.com](http://www.delawareriveroftheyear.com) or .org. The next teleconference by the PA River of the Year Steering Committee will be Aug. 24.

**Adopted FY 2012 WU/RM Committee Work Plan Available Upon Request:** Print or electronic copies of this committee's FY 2012 Work Plan as adopted at the July 7 UDC meeting are available. Boyar commented that he finds it unrealistic that this committee has 50 objectives listed in the work plan. It should focus on a smaller number of achievable goals. Soete explained that this work plan is prepared according to NPS guidelines for the UDC's Cooperative Agreement.

**Other:** 1) Ritter referenced the registration flyer included in the packets for the **UDC's 23<sup>rd</sup> Annual Family Raft Trip** which will cover Barryville to Pond Eddy on Sunday, Aug. 7. Advance reservations are due by Aug. 1. He also mentioned that the UDC will have an information booth at the 21<sup>st</sup> Annual Narrowsburg Riverfest on July 24. 2) Hamilton reported that NPS Upper Delaware Scenic and Recreational River submitted one of only eight projects selected to receive funding from the **USGS Water Quality Monitoring Program**. The project is to install four continuous water quality monitors with telemetry capabilities at existing USGS sites. Potential locations are Lordville, Barryville, Rowland (on the Lackawaxen River) and Montague, depending on an investigation of the deployment logistics for each site. The datasondes will measure core water quality parameters in real time, including temperature, depth, volume, Dissolved Oxygen, turbidity, pH, and conductivity. Hamilton noted that the Susquehanna River Basin has a network of 37 water quality stations in operation, mostly funded by the natural gas industry. They are expensive to install and maintain, which is why most of these systems are funded in partnership with other entities. It's expected that installation of the Upper Delaware's monitors will take place in FY 2012, perhaps as early as December and then continuing into the spring. 3) On the subject of gages, Ritter said that the **Cooks Falls gage** on the Beaverkill River is not functioning for temperature, though it still measures water level. Hamilton said he would check on that with the monitors. Boyar added that the **Barryville gage** is not accurate for flood threats to the hamlet because it's located above the Delaware River's confluence with the Lackawaxen. It would be great to have another station there to offer people a true picture of high water threats. Every town south of the Lackawaxen is in the same boat. The next gage is not until Montague. Chase asked what the difference in temperatures is on weekdays on the Lackawaxen versus weekends when there are releases. Boyar said they will do releases for thermal events. Ritter said at the end of the day, there can be a 10-degree difference in water temperatures between the Delaware and the Lackawaxen. Any stress periods that trout have are sporadic, added Boyar. The average water temperature has been 72 degrees tops. Chase asked how many years the Lackawaxen has been able to carry trout. Ritter said it had been such high, fast water that people could only fish by boat. The shad run keeps getting better. Hamilton commented that high flows in the tributaries have been displacing their installations of their water quality instruments.

**Public Comment:** Anne Willard from *The River Reporter* referenced Rando's earlier statement that the NPS could be preparing legal options regarding the Holbert quarry decision in Lackawaxen. Her memory of the River Management Plan is that there is a flow chart for sanctions in which the town ordinance must first be declared out of substantial conformance. In this case, Lackawaxen Township conforms but they aren't following their own ordinance. What is the recourse for that? Hamilton said if the township approves this conditional use as presented, that would take them out of substantial conformance. Willard discussed pages 58-61 of the River Management Plan that describe how the river corridor boundaries were set. There is not one word in there about line of sight or noise being factors. Direct drainage was the basis for the boundaries. Holbert has argued that there are no drainage issues. Hamilton said the plan states that a wetland will capture any runoff, where it would be treated with no impact to the river. Willard asked if the boundaries could be changed if the drainages change. Hamilton said he is not aware that they can be altered. Willard said the point is, if somebody gets to violate the Plan so blatantly, anybody can get away with anything and this Council isn't needed. Hamilton said that the crafters of the Plan did their best to come up with a plan to protect the river. This boundary line isn't perfect. They couldn't analyze every inch to check on drainages. Maybe there were some man-made alterations since then that have changed things. He will review the Plan again regarding corridor boundaries and the rationale for them. This will be helpful

to understand how to defend the Plan. Willard wondered why Holbert can't work on some of the quarry, reclaim it, and then start more. Hamilton said he hopes that the township will ask Holbert how he intends to operate and reclaim this quarry. Several neighbors have been recognized as parties to the proceeding, unlike NPS and UDC, and they will be able to ask questions. Willard asked whether NPS has tools to measure the footprint of the quarry activity from an aerial photo. Hamilton said they probably could through GIS software. Holbert claims that he's working an active face of two acres. He also says he has a 10-year supply of waste rock to crush. Boyar asked if the PA Department of Environmental Protection (DEP) has stated what Holbert is allowed to do and have at the site. Soete said that a DEP official advised him that they do not have an application from Holbert Bros. Bluestone for a major mining permit at this time. Soete said he's curious to find out what will happen at the July 20 meeting.

**Adjournment:** A motion by Boyar seconded by Rando to adjourn the meeting at 8:51 p.m. was carried.

*Minutes prepared by Laurie Ramie, 7/25/11*