

DELAWARE RIVER BASIN COMMISSION

MEETING OF DECEMBER 5, 2012

Minutes

The Commission met at the Commission's office building in West Trenton, New Jersey.

Commissioners Present: Kelly J. Heffner, Pennsylvania, Chair
Michele N. Siekerka, New Jersey, Vice Chair
Angus Eaton, New York, Second Vice Chair
Kathleen M. Stiller, Delaware
Lieutenant Colonel Chris Becking, United States

DRBC Staff Participants: Carol R. Collier, Executive Director
Robert Tudor, Deputy Executive Director
Kenneth J. Warren, Hangley Aronchick Segal Pudlin & Schiller, DRBC
General Counsel
Pamela M. Bush, Commission Secretary & Assistant General Counsel
Thomas J. Fikslin, Branch Manager, Modeling, Monitoring and Assessment
Richard C. Gore, Chief Administrative Officer
William J. Muszynski, Branch Manager, Water Resources Management
Amy Shallcross, Supervisor, Operations Section

Commission Chairwoman Kelly J. Heffner convened the business meeting at 1:30 p.m. with introductions by the Commissioners and key staff. Ms. Heffner announced that the meeting would be broadcast into the lobby and reminded everyone to speak audibly and to be aware of the placement of microphones.

Minutes. The Minutes for the Commission Meeting of September 12, 2012 were approved unanimously on a motion by Mr. Eaton, seconded by Ms. Stiller.

Announcements. Ms. Bush announced the following meetings:

- *DRBC Regulated Flow Advisory Committee Meeting.* Thursday, December 6, 2012 at 10:00 a.m. in the Goddard Conference Room. Agenda available on the Commission's website. Staff contact: Hernan Quinodoz, (609) 883-9500, extension 225.
- *DRBC Water Quality Advisory Committee Meeting.* Wednesday, December 12, 2012 from 9:30 a.m. to 1:00 p.m. in the Goddard Conference Room. Staff contact: Donna Barnett, (609) 883-9500, extension 308.

- *DRBC Flood Advisory Committee Meeting.* Wednesday, February 27, 2013 at 10:00 a.m. in the Goddard Conference Room. Staff contact: Laura Tessieri, (609) 883-9500, extension 304.

Hydrologic Conditions. Ms. Shallcross reported on hydrologic conditions in the Basin:

The observed precipitation for the portion of the Basin above Montague, New Jersey for the period January 1 through December 3, 2012 was 39.30 inches or 0.94 inches below normal. The observed precipitation for the Basin above Trenton for the same period was 39.10 inches or 2.52 inches below normal and for the Basin above Wilmington, Delaware for this period, 32.41 inches or 7.33 inches below normal.

The average observed streamflow of the Delaware River at Montague in November 2012 was 4,800 cubic feet per second (cfs) or 110.7 percent of the long-term average for the month. For the same period, the average observed streamflow at Trenton was 11,151 cfs, or 106.8 percent of the long-term average for the month.

For the period of December 1 through December 3, the average observed streamflow at Montague was 2,600 cfs, or 52.9 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 5,973 cfs, or 52.8 percent of the long-term average for the month.

In the Lower Basin, as of December 4, 2012, Beltzville Reservoir contained 13.95 billion gallons (bg) usable, or 100.4 percent of usable storage, and Blue Marsh contained 4.30 bg usable, or 100.4 percent of winter pool usable storage. As of December 3, Merrill Creek contained 14.80 bg usable, or 94.3 percent of usable storage.

In the Upper Basin, as of December 4, 2012, Pepacton Reservoir contained 99.428 bg usable or 70.9 percent of usable storage. Cannonsville contained 68.364 bg usable, or 71.4 percent of usable storage. Neversink contained 33.964 bg usable or 97.2 percent of usable storage. The total New York City Delaware Basin reservoir storage was 201.756 bg usable or 74.5 percent of usable storage.

During the month of November 2012, the location of the seven-day average of the 250-parts-per-million (ppm) isochlor, also known as the "salt front," ranged from River Mile (RM) 68 to RM 71. The normal location of the salt front during November is RM 80, which is two miles upstream of the Delaware-Pennsylvania state line.

As of December 3, the salt front was located at RM 71, which is three miles downstream of the normal location of the salt front during December.

Executive Director's Report. Ms. Collier's remarks are summarized below:

- *DRBC 2011 Annual Report and 50th Anniversary.* The annual report is posted on the Commission's website. Ms. Collier acknowledged Clarke Rupert, Susan Owens and Kate O'Hara and all staff members who contributed to the report.

- *American Water Resources Association (AWRA).* The AWRA has assembled case studies of integrated water resources management from local stewardship to national vision. The Delaware River Basin is included as one of the case studies. Additional information is available on the Commission's website.
- *Partnering for Sustainable Water Resources.* The DRBC is moving forward with a strategy for sustainable water resources in the Basin to 2060 in partnership with other agencies. The U.S. Geological Survey (USGS) WaterSMART water census program includes three focus areas for the basin: (1) ecological flows and endangered species; (2) updating water supply and demand data; and (3) building a model that will allow DRBC to test different scenarios for population, streamflow, and other variables, so that we can better manage the system. DRBC is also working with the U.S. Army Corps of Engineers on connecting the USACE salinity model and the DRBC flow model so we can better define the flows required at Trenton to repel salinity, especially in light of sea level rise. Finally, the National Oceanic and Atmospheric Administration (NOAA) is considering a mid-Atlantic study from the Hudson to the Potomac Rivers in the context of their Integrated Water Resources Sciences and Services (IWRSS) program. They will be talking to local stakeholders about focuses for the Delaware Basin.
- *Dr. Ruth Patrick River Garden at the DRBC Courtyard.* With Commissioner action this afternoon on a resolution, we will ask for bids for construction of the courtyard under a grant award for this purpose. More information will be available on the DRBC website.
- *Partnership for the Delaware Estuary.* The Partnership will hold its 5th Science and Environmental Summit January 27-30, 2013 at the Grand Hotel and Convention Center in Cape May, New Jersey. Themed "*Weathering Change – Shifting Environments, Shifting Policies, Shifting Needs,*" this conference will seek to create more effective partnerships by sharing information among scientists, outreach specialists, resource managers, and others with an interest in the prosperity of the Delaware Estuary.
- *Partnering for Flood Outreach.* During 2013 DRBC will partner with the New Jersey Department of Environmental Protection (NJDEP) and Nurture Nature Center on a flood outreach project for the Bay Shore area of the basin. On December 13 a special session will be held reflecting on Hurricane Sandy, with Mr. Gary Szatkowski whom you have probably met at different flooding events held at the DRBC. This special session will take place in Easton, Pennsylvania.
- *"Superstorm" Sandy.* The Basin dodged a bullet for the most part during this storm. Early projections had Sandy coming right up the river. DRBC is working to build flood resiliency in the basin, including through a partnership with the National Weather Service (NWS) for inundation mapping of the tidal reaches to allow communities to be better prepared.
- *Paulsboro, NJ Train Derailment and Chemical Spill.* DRBC staff in the Modeling, Monitoring and Assessment Section run a 24-hour/7-days a week model on the tides of the estuary. If there is a spill, as in this instance, staff use that model to determine the

spill transport route, providing a valuable service to water withdrawers and others that use the water.

- *In Memory of Todd Kratzer.* DRBC lost a former staff member with the passing of Todd Kratzer, a geologist who had worked with USGS, DRBC, NJDEP and the Water Authority, following a tragic car accident. Todd had been a key member in the water community.
- *Dr. Richard Tortoriello.* Dr. Tortoriello has returned following surgery to replace his knees and he is thriving. Dr. T. worked here for many years before retiring and is now our Number One Volunteer.
- *DRBC Family Community.* Good news! We have three new babies among our staff: two boys and one girl.

General Counsel's Report. Mr. Warren noted that the first item would appear as old news to many but it occurred after the September meeting. Three cases had been consolidated in front of a single judge in the Eastern District of New York in Brooklyn, challenging the draft DRBC Natural Gas Regulations on the ground that those regulations should have been accompanied by an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA). The court granted motions to dismiss the lawsuits without prejudice on the grounds that since the regulations were only a draft, the suits were not yet ripe and the plaintiffs did not have standing yet to bring those cases.

One natural gas case – a challenge to a Stone Energy Corporation docket – remains in litigation. That case is pending in the District of New Jersey. There are motions pending regarding the completion of the administrative record and whether some deliberative process documents should be in or out of that record. The matter has been briefed and once the court reaches a decision, the Commission will get a briefing schedule on disposition of that case.

Mr. Warren recused himself from matters concerning the Columbia Gas Company and also with respect to Agenda Item 21 (PSEG / PPL, Docket No. D-2010-018 CP-1). He advised that Ms. Bush would be handling matters relating to pipelines.

Assistant General Counsel Report on Appeals and Settlements. Ms. Bush reported that on August 9, 2012 the Delaware Riverkeeper Network (DRN) submitted a request for an administrative hearing to review a determination issued by the Executive Director in July regarding whether certain infrastructure projects should be subject to the Commission's project review process. After filing this request, the Riverkeeper on September 12 submitted a petition asking the Commission to modify its existing regulations to provide for review of all natural gas pipeline projects. The petition has since been supplemented with signatures on two occasions, October 3 and November 26. Ms. Bush invited the Chair to respond to DRN's requests.

Chairwoman Heffner reiterated that DRN's petition of September 12 asked the Commission to take jurisdiction over all natural gas pipeline projects crossing the basin. She explained that as the DRBC docket decision of July 11, 2012 (Docket D-2011-022-1) on the Tennessee Gas

Pipeline Northeast Upgrade Project demonstrated, the Commission's existing regulations provide for the review of those pipeline projects that on a case-by-case basis would trigger a review. The existing rules do not, however, allow the broad exercise of the Commission's jurisdiction that the DRN requests. One of the issues being considered in the context of the Commission's ongoing natural gas rulemaking process is whether and under what circumstances the Commission should modify its existing rules to require Commission review and approval of all natural gas pipeline projects. Ms. Heffner said that because the ongoing rulemaking process is the appropriate mechanism to address this issue, she was asking for a motion to deny DRN's petition without prejudice. Ms. Siekerka offered a motion; Mr. Eaton seconded it and the motion to deny the DRN petition without prejudice was unanimously approved.

DRN's hearing request mentioned three specific natural gas pipeline projects: (1) Tennessee Gas Pipeline Northeast Upgrade; (2) the Columbia 1278 Replacement project; and (3) the Tennessee Gas Pipeline 300 Line, which preceded the Northeast Upgrade. At its July 11, 2012 meeting, the Commission issued a docket for one of these projects – the Tennessee Gas Pipeline Northeast Upgrade Project ("NEUP"). Ms. Heffner explained that because the Commission had already reviewed the NEUP, the hearing request asking the Commission to review that project was moot. On this basis, she requested a motion to deny the request for hearing on NEUP. Lieutenant Colonel Becking so moved, Ms. Siekerka seconded his motion, and the motion to deny DRN's request for hearing on the NEUP was unanimously approved.

Ms. Heffner related that as to the remaining projects identified in DRN's request for a hearing, Commission staff had undertaken a reexamination of those projects and produced additional information that the jurisdictions would need time to examine. She said that in order not to delay a decision on DRN's request further, she was seeking a motion to the effect that in the event the information produced by staff justified any change in the Executive Director's determination of July 10, 2012, the Commissioners hereby authorized the Executive Director to revise that determination before the end of January, 2013. Ms. Siekerka so moved, Mr. Eaton seconded her motion, and the motion was unanimously approved. Ms. Heffner thanked the staff for their hard work.

Settlements. Ms. Bush explained that Section 2.7.8 of the Rules of Practice and Procedure provides for settlement in lieu of a penalty wherever settlement is in the interest of the Commission and the regulated party. She asked the Commissioners to ratify three settlement agreements in connection with alleged violations of DRBC docket conditions for, respectively, DuPont Chambers Works (D-1988-085-3), NuStar Asphalt Refining, LLC (D-2009-037-1), and Warren County – Pequest River Municipal Utilities Authority (D-1971-096 CP-4). None of the three agreements involve contested facts. All concern alleged effluent monitoring violations, which are classified as minor or moderate on the civil penalty matrix that the Commission adopted in 2009. The settlement amounts are the lowest amounts authorized under circumstances where the docket holder has no record of past violations, has cooperated in good faith with the Commission, is not willfully violating Commission requirements, has incurred only minor economic benefits as a result of the alleged violation and where limited or no adverse effects on water resources have occurred as a result of the violation. Ms. Bush explained that each of the settlement agreements had been executed by the staff.

Chairwoman Heffner requested a motion to ratify the three settlement agreements as described by Ms. Bush. Ms. Stiller so moved, Mr. Eaton offered a second, and the settlement agreements with DuPont Chambers Works, NuStar Asphalt Refining, LLC, and Warren County – Pequest River Municipal Utilities Authority were unanimously approved.

Public Hearing: Project Review Applications. Mr. Muszynski presented for the Commissioners' consideration the 33 dockets listed in the public hearing notice. By way of background, he explained that six weeks before the Commission notifies the public of the dockets to be scheduled for hearing at a Commission meeting, the Project Review staff sends draft dockets for internal review and comment to the appropriate agencies of the Commission's member states and the federal government. Approximately three weeks before the hearing notice is issued, a hearing notice, including descriptions of the draft dockets, is filed for publication in state and federal registers. Approximately ten business days prior to the meeting, staff posts a "Notice of Commission Meeting and Public Hearing" on the DRBC website that includes a list of the draft dockets scheduled for hearing and consideration by the Commissioners at the meeting. The list includes hot links to the draft dockets on the website. During the Commission Meeting and Public Hearing draft dockets are presented, comment is accepted, and the Commissioners consider whether to approve, disapprove or postpone consideration of each docket. The approved dockets are posted on the Commission's website and staff also provides notice of the approvals directly to the states and applicants.

Mr. Muszynski explained that the review process takes six to nine months to complete, and that the public is informed of the status of project applications by a variety of means during that period as follows: Each docket application is added to the "Project Review Status Report" on the DRBC website. This report includes the applicant's name and project location, a description of the proposed project, the docket number assigned to the project, and the name of the staff member reviewing the project. A list of applications received also is compiled approximately five times a year and posted on the Commission's website as the "Notice of Applications Received" (NAR). An "Interested Parties List" (IPL) is created for each project under review. Anyone can have his or her name added to the IPL for a given project. Those on the IPL receive email notification of public notices for the project as they are posted on the Commission's website, including the notice advertising the public hearing. Members of the public seeking additional information about a project may contact the staff member reviewing the project or arrange by appointment to review the relevant Project Review file at any time that is mutually convenient for the staff and the party.

The dockets were presented in three groups: Category A, consisting of docket renewals involving no substantive changes (hearing items 1 through 11); Category B, consisting of renewals involving significant changes, such as an increase or decrease in an authorized withdrawal or discharge (hearing items 12 through 20); and Category C, consisting of projects not previously reviewed by the Commission (hearing items 21 through 33).

A. *Renewals with No Substantive Changes (hearing items 1 through 11).* The Commission received no comments on these projects.

1. Phoenixville Borough, D-1967-123 CP-2. An application to renew the approval of an existing surface water withdrawal (SWWD) of up to 182.311 million gallons per month (mgm) to supply the applicant's public water supply system. Surface water will continue to be withdrawn from two existing intakes (Nos. 1 and 2) located in the Schuylkill River. The water treatment plant is located within the Commission's designated GWPA, in Phoenixville Borough, Chester County Pennsylvania.
2. Sunoco Logistics, D-1968-053-2. An application to renew the approval of an existing discharge from the 5.0 mgd Eagle Point industrial wastewater treatment plant (IWTP). Treated effluent will continue to be discharged to Water Quality Zone 4 of the Delaware River at River Mile 94.5 via Outfall No. DSN001A, in West Deptford Township, Gloucester County, New Jersey.
3. Kimberly-Clark Corporation, D-1984-053 CP-2. An application to renew the approval for the discharge of up to 2.0 mgd of filter backwash and reverse osmosis water overflow from Outfall No. 001 on an emergency basis and up to 0.1 mgd of non-contact cooling water (NCCW) from Outfall No. 003 at the Kimberly-Clark Chester Facility. Effluent will continue to discharge to Water Quality Zone 4 of the tidal Delaware River at or near River Mile 82.8, in the City of Chester, Delaware County, Pennsylvania.
4. Sunoco Logistics, D-1986-015-4. An application to renew the approval of an existing SWWD of up to 111.6 mgm from Intake No. Dock 1-A and 146.97 mgm of groundwater from Wells Nos. 1, 3, 5, and 6A for industrial use at the Sunoco Eagle Point facility. Intake No. Dock 1-A will continue to withdraw surface water from the Delaware River in Water Quality Zone 4. The four wells will continue to withdraw groundwater from the Potomac-Raritan-Magothy (PRM) Formation. The Sunoco Eagle Point facility is located in West Deptford Township, Gloucester County, New Jersey.
5. Whitemarsh Township, D-1993-037 CP-3. An application to renew the approval of an existing discharge from the 2.0 mgd Whitemarsh Township wastewater treatment plant (WWTP). The WWTP will continue to discharge treated effluent to the Schuylkill River at River Mile 92.47 - 18.6 (Delaware River - Schuylkill River) via Outfall No. 002. The WWTP is located within the Commission's designated GWPA, in Whitemarsh Township, Montgomery County, Pennsylvania.
6. North Coventry Municipal Authority, D-1997-001 CP-3. An application to renew the approval of an existing discharge from the 2.01 mgd WWTP. The WWTP will continue to discharge treated domestic sanitary effluent to the Schuylkill River at River Mile 92.47 - 52.0 (Delaware River - Schuylkill River), in North Coventry Township, Chester County, Pennsylvania.
7. Nestlé Waters North America, Inc., D-1998-027-4. An application to renew the approval of a spring water withdrawal of up to 9.3 mgm to continue to supply the applicant's

bottled water operations from existing Hoffman Springs Nos. 1, 2 and 3. Mattos Catchment No. 1 will continue to be used for augmenting flows in Ountelaunee Creek. The project is located in the Ountelaunee Creek Watershed in Lynn Township, Lehigh County, Pennsylvania.

8. Upper Hanover Authority, D-2001-061 CP-3. An application to renew the approval of an existing discharge from the 0.4 mgd Macoby WWTP. The WWTP will continue to discharge treated wastewater effluent to the Macoby Creek at River Mile 92.47 - 32.3 - 19.5 - 5.3 (Delaware River - Schuylkill River - Perkiomen Creek - Macoby Creek), in Upper Hanover Township, Montgomery County, Pennsylvania.
9. Warwick Township, D-2008-004 CP-2. An application to renew the approval of an existing land discharge from the 0.06305 mgd St. Peter's Village WWTP. The WWTP will continue to discharge treated effluent to a spray irrigation site near River Mile 92.47 - 35.6 - 16.5 (Delaware River - Schuylkill River - French Creek), located within the Commission's designated GWPA, in Warwick Township, Chester County, Pennsylvania.
10. Aqua Pennsylvania, Inc., D-2008-025 CP-2. An application to renew the approval of an existing discharge from the 0.150 mgd Aqua Pennsylvania Ridley Creek water filtration plant (WFP). Filtered backwash will continue to discharge to Ridley Creek, a tributary of Water Quality Zone 4 of the Delaware River, in Middletown Township, Delaware County, Pennsylvania.
11. Kimberly-Clark Corporation, D-2012-012 CP-1. An application to incorporate the Kimberly-Clark Chester Cogeneration Facility (CCF) into the Comprehensive Plan and to renew the approval of an existing SWWD for industrial process and cooling use of up to 341 mgm from Water Quality Zone 4 of the Delaware River, in the City of Chester, Delaware County, Pennsylvania.

Mr. Muszynski recommended that the Commissioners approve hearing items 1 through 11 consisting of docket renewals without substantive changes. Hearing no questions or comments, Ms. Heffner requested a motion to approve the 11 dockets in this category. Ms. Stiller so moved, Ms. Siekerka seconded her motion, and hearing items 1 through 11 were approved by unanimous vote.

B. Renewals with Substantive Changes (hearing items 12 through 20). Mr. Muszynski introduced the next category of dockets consisting of renewals involving significant changes. The Commission received no comments on these projects.

12. Village of Liberty, D-1965-039 CP-2. An application to renew the approval of an existing discharge from the 2.0 mgd Village of Liberty WWTP and to approve modifications that will not result in an increase in hydraulic capacity. The WWTP will continue to discharge to an unnamed tributary of the East Branch Mongaup River above the Swinging Bridge Reservoir at River Mile 261.1 - 23.56 - 8.12 - 0.86 (Delaware River - Mongaup River - East Branch Mongaup River - UNT) via Outfall No. 001. The WWTP is located within the drainage area of the section of the non-tidal Delaware River known

as the Upper Delaware, which is classified as Special Protection Waters, in the Village of Liberty, Sullivan County, New York.

13. Forest Park Water, D-1965-076 CP-11. An application to renew the approval of an existing discharge of up to 2 million gallons per day (mgd) of filter backwash from the Forest Park Water Treatment Plant (WTP). The application will also amend the existing service area included in Docket No. D-1965-076 CP-8 to include portions of Lower Bucks County and Lower Moreland Township in Montgomery County. No increase in water withdrawal allocation has been requested or included in this docket. The WTP will continue to discharge treated effluent to Pine Run through Outfall Nos. 1 and 2 at River Mile 115.63 - 40.0 - 0.1 (Delaware River - Neshaminy Creek - Pine Run) and River Mile 115.63 - 40.0 - 0.2 (Delaware River - Neshaminy Creek - Pine Run), located within the Commission's designated Ground Water Protected Area (GWPA), in Chalfont Borough, Bucks County, Pennsylvania.
14. Saucon Valley Country Club, D-1967-022 -2. An application for approval of an existing SWWD and to approve a withdrawal allocation to supply up to 34.5 mgm of water for irrigation on the applicant's golf course from existing surface water Intake Nos. 1 and 2. The existing withdrawal intakes are located on Saucon Creek in the Saucon Creek Watershed, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Upper Saucon Township, Lehigh County, Pennsylvania.
15. Bethlehem City, D-1971-078 CP-3. An application to renew the approval of an existing discharge from the 20.0 mgd City of Bethlehem WWTP and to approve modifications to the WWTP that have been and will be performed to increase the CSO capacity at the facility. The WWTP will continue to discharge treated effluent to the Lehigh River at River Mile 183.66 - 9.51 (Delaware River - Lehigh River) via Outfall No. 001, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in the City of Bethlehem, Northampton County, Pennsylvania.
16. Town of Liberty, D-1985-065 CP-2. An application to renew the approval and upgrade of the existing 0.08 mgd Town of Liberty Loomis WWTP. Modifications include the addition of a rotating biological contactor and clarifier to the existing sand filter and polishing lagoon treatment system. The WWTP will continue to discharge to an unnamed tributary (UNT) of Swan Lake, an impoundment just upstream of the West Branch Mongaup River, which is a tributary to the Mongaup River, at River Mile 261.1 - 19.7 - 8.2 - 1.0 - 1.1 (Delaware River - Mongaup River - West Branch Mongaup River - Swan Lake - UNT) The WWTP is located within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters, in the Town of Liberty, Sullivan County, New York.
17. Morrisville Borough Municipal Authority, D-1987-008 CP-3. An application to renew the approval of an existing discharge from the 8.7 mgd MBMA WWTP and to approve modifications related to the extension of Outfall No. 001. Treated effluent will continue

to be discharged to Water Quality Zone 2 of the Delaware River at River Mile 133.0 via Outfall No. 001, in Morrisville Borough, Bucks County, Pennsylvania.

18. Warwick Township Water & Sewer Authority, D-1998-019 CP-2. An application to renew the approval of an existing subsidiary water allocation of up to 24.8 mgm via a current interconnection with Aqua Pennsylvania and to approve an additional subsidiary water allocation of up to 24.8 mgm via a new interconnection with North Wales Water Authority from the Forest Park Water Treatment Plant, for a total allocation of up to 49.6 mgm. The project is located in the Neshaminy Creek Watershed, within the Commission's designated GWPA, in Warwick Township, Bucks County, Pennsylvania.
19. NuStar Asphalt Refining, LLC, D-2001-027 -4. An application for modification of a SWWD to increase the allocation of surface water from 7.79 mgm to 19.09 mgm from existing Intakes Nos. 1 and 2 for the applicant's industrial processes, heating, hydrostatic testing, and fire emergency testing. The increase in allocation is requested to accommodate periodic hydrostatic testing of above-ground storage tanks. The project intakes withdraw water from the tidal portion of Mantua Creek, located in the Mantua Creek Watershed, in the Borough of Paulsboro, Gloucester County, New Jersey.
20. New York City Department of Environmental Protection, D-2004-028 CP-2. An application to renew the approval of an existing discharge from the 2.5 mgd Port Jervis WWTP and to approve modifications designed to satisfy DRBC's no measurable change (NMC) requirement. Docket No. D-2004-028 CP-1 approved construction improvements to the facility referred to as Phase I. This application is for the approval of Phase II modifications, which include the rehabilitation of trickling filters, concrete structure and supports for weirs, and the installation/replacement of mechanical equipment in the existing final settling and chlorine contact tanks. The existing 2.5 mgd WWTP will continue to discharge to River Mile 253.64 - 0.82 (Delaware River - Neversink River) via Outfall No. 001, within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in the City of Port Jervis, Orange County, New York.

A listener asked whether any of the treatment plants described accepts fracking wastewater. Mr. Muszynski said that the dockets include an express provision to the effect that these facilities cannot accept fracking wastewater unless the applicants apply to the Commission for a docket modification and approval to do so.

Concerning hearing item number 18, Warwick Township Water & Sewer Authority, D-1998-019 CP-2, a listener asked Mr. Muszynski why an increase in water allocation was being requested. Mr. Muszynski said that the allocation is not being increased. Warwick Township currently relies on a combination of groundwater wells and a subsidiary allocation from Aqua Pennsylvania to meet total needs. The Township is replacing its groundwater system with a surface water system, with water supplied by the North Wales Water Authority, because of concerns the groundwater systems would become unreliable. The project is located in the Pennsylvania Southeastern Ground Water Protected Area (GWPA), which was created because the Commission was concerned about the impacts of well pumping on ground water levels.

Dockets issued for projects in the GWPA include a provision that if the docket holder's use interferes with other wells, the docket holder must provide mitigation. Asked whether the water was for domestic use only and not for sale or for industrial uses, Mr. Muszynski said that the Township may have some commercial uses in its system.

Mary Ellen Noble of DRN asked whether the township would have sufficient water without the wells. Mr. Muszynski said that between the two systems there would be enough.

Mr. Muszynski recommended that the Commissioners approve hearing items 12 through 20, consisting of renewals involving substantive changes. Hearing no further questions or comments on these nine dockets, Ms. Heffner asked the Commissioners for a motion to approve them. Lieutenant Colonel Becking so moved, Mr. Eaton offered a second and hearing items 12 through 20 were approved by unanimous vote.

C. *New Projects (hearing items 21 through 33)*. These 13 projects comprised new discharges or withdrawals or constituted projects new to the Commission.

21. PSEG/PPL, D-2010-018 CP-1. An application to approve the upgrade of an existing overhead electric transmission line, referred to as the Susquehanna to Roseland 500-kiloVolt (kV) transmission line (S-R Line) project. The proposed upgrade consists of replacing approximately 146 miles of existing 230-kV overhead electric transmission line that extends from PPL's Susquehanna Substation near Berwick, Luzerne County, Pennsylvania to PSE&G's Roseland Substation in Roseland Borough, Essex County, NJ with a 500-kV overhead electric transmission line. Approximately 72 miles of the proposed upgraded 500-kV transmission line to be upgraded is within the Delaware River Basin, including a portion of the line (approximately 4.3 miles) that crosses the Middle Delaware River and the National Park Service's Delaware Water Gap National Recreation Area (DEWA). The DEWA is designated in the DRBC's Comprehensive Plan as a recreation project area. The project also involves widening 0.75 miles of existing right-of-way (ROW) within the DEWA along the existing 230-kV line to accommodate the larger structures associated with the proposed 500-kV line, and the clearing involved with the widening of ROW.

22. Horsham Air Guard Station (formerly noticed as Willow Grove Naval Air Station), D-2010-020 CP-1. An application for approval of a groundwater withdrawal (GWD) project to supply up to 3.2 mgm of water to the applicant's existing water supply system from existing Wells Nos. 1 and 2. The project is located in the Stockton Formation in the Park Creek Watershed, within the Commission's designated GWPA, in Horsham Township, Montgomery County, Pennsylvania.

23. Tamaqua Area Water Authority, D-2010-028 CP-1. An application for approval of an existing SWWD of up to 155 mgm of water from an existing surface water intake located at the TAWA's Still Creek Reservoir for public water supply. The application also includes the request to increase the periodic releases from the Still Creek Reservoir from 36 mgd to 43.3 mgd for consumptive use and non-consumptive cooling water needs of the Limerick Generating Station, operated by the Exelon Generation Company, LLC in

Pottstown, Pennsylvania. The project is located in the Still Creek Watershed in Rush Township and Tamaqua Borough, Schuylkill County, Pennsylvania.

24. Shinn Spring Water Company, D-2011-019-1. An application to approve a proposed new discharge of backwash water generated by the bottled water operations at the existing Shinn Spring Water Company bottling facility. The application includes a request for a Total Dissolved Solids (TDS) determination of 6,850 million gallons per liter (mg/l) (average monthly concentration) and 19,600 mg/l (daily maximum concentration) for the new discharge. No treatment facilities are proposed. Up to 0.075 mgd of the water used in bottling operations is imported via trucks from the Susquehanna River Basin, with the remaining water coming from local water sources. The applicant proposes an average design discharge of 0.0625 mgd and a maximum design discharge of 0.075 mgd to the Schuylkill River at River Mile 92.47 - 68.5 (Delaware River - Schuylkill River) in Cumru Township, Berks County, Pennsylvania.
25. SUNY Delhi, D-2012-006 CP-1. An application for approval of a SWWD project to supply up to 7.75 mgm of treated domestic wastewater effluent from the Village of Delhi WWTP to the applicant's golf course irrigation pond for turf irrigation. The project is located within the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters, in the West Branch Delaware River and Little Delaware River Watersheds in the Town of Delhi, Delaware County, New York.
26. Harrison Township, D-2012-007 CP-1. An application to approve the incorporation of the applicant's new Richwood WWTP and its associated discharge into the Comprehensive Plan. The new WWTP facilities consist of a membrane bio-reactor (MBR) treatment system that will discharge treated effluent to groundwater through the use of seven (7) proposed infiltration basins. The WWTP will have a hydraulic design capacity of up to 0.98 million gallons per day (mgd); however the proposed WWTP is permitted by the New Jersey Department of Environmental Protection (NJDEP) for a hydraulic design capacity of 0.375 mgd, in Harrison Township, Gloucester County, New Jersey. Under the Administrative Agreement (AA) between NJDEP and DRBC, this project will be classified as a Category D project after the approval of this docket by the Commission.
27. City of Philadelphia – Philadelphia International Airport, D-2012-008 CP-1. An application to approve the multi-phased Capacity Enhancement Program (CEP) at the Philadelphia International Airport (PHL). The CEP includes the construction of new buildings and runways, as well as the filling of wetlands on-site within the 100-year floodplain and mitigation projects throughout the Delaware Basin. The PHL is located adjacent to the Delaware River in Water Quality Zone 4 at River Mile 89.0, in the City of Philadelphia, Pennsylvania.
28. Eagle Point Power Generation, LLC, D-2012-010 CP-1. An application to incorporate the existing Eagle Point Cogeneration Facility (EPCF) into the Comprehensive Plan and to approve a SWWD of up to 110.234 mgm from Intake No. Dock 3 to provide cooling

water to the EPCF. Intake No. Dock 3 is located on the Delaware River in Water Quality Zone 4 and was previously operated by Sunoco, Inc. The EPCF is located in West Deptford Township, Gloucester County, New Jersey.

29. City of Lewes Board of Public Works, D-2012-011 CP-1. An application to approve an existing discharge from the 1.5 mgd Lewes City WWTP. Treated effluent will continue to discharge to the Lewes Rehoboth Canal, a tidal tributary of Water Quality Zone 6 of the Delaware River, at River Mile 0.82 - 2.0 (Delaware River - Lewes Rehoboth Canal) via Outfall No. 001, in the City of Lewes, Sussex County, Delaware.
30. Jonathan Ammary – Blue Mountain View Estates, LLC (formerly noticed as Richard F. Beers), D-2012-014 CP-1. An application to approve an existing discharge from the 0.026 mgd Chestnut Hill Ridge Mobile Home Park WWTP. The WWTP treatment facilities consist of an equalization tank, three (3) aeration tanks, two (2) clarifiers, chlorine disinfection, and post aeration. The WWTP will continue to discharge to the Aquashicola Creek at River Mile 183.6 - 36.3 - 7.6 (Delaware River - Lehigh River - Aquashicola Creek), within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Lower Towamensing Township, Carbon County, Pennsylvania.
31. Bucks County Water and Sewer Authority, D-2012-021 CP-1. An application to approve a water supply subsidiary water allocation for Bucks County Water and Sewer Authority (BCWSA) of up to 10 mgd of potable water. The North Penn and North Wales Water authorities, which jointly own the Forest Park Water Treatment Facility, each have agreed to make 5 mgd of capacity available on an annual basis to the BCWSA for a total of 10 mgd. The water will be made available through an interconnection with North Wales Water Authority. BCWSA is also constructing 50,000 feet of transmission main. The water will serve customers within BCWSA's Southwest Region Water System. Bucks County Water and Sewer Authority currently provides water to this system through an interconnection with the City of Philadelphia. The service area includes Hulmeville Borough, Langhorne Borough, Langhorne Manor Borough, Lower Southampton Township, Middletown Township, Pennel Borough, Bensalem Township, Northampton Township, Upper Southampton Township, Falls Township, Newtown Borough, Newtown Township, Lower Makefield Township, and Bristol Township, which are all located in Lower Bucks County. The water will also serve portions of Lower Moreland Township, Montgomery County. The project is located primarily in the Neshaminy Creek Watershed, within the Commission's designated GWPA.
32. Hamburg Municipal Authority, D-2012-022 CP-1. An application for approval of an existing GWD and SWWD to supply up to 35 mgm of water to the applicant's public water supply system from existing Wells Nos. HMA-2, HMA-3, HMA-4, and HMA-5, new Wells Nos. HMA-6 and HMA-7, the existing Furnace Creek Reservoir and the existing water filtration plant. The allocation is requested in order to meet existing and projected service area demand. The existing public water supply system was not previously approved by the Commission. The project wells are located in the Furnace

Creek and Schuylkill River watersheds, in Hamburg and Windsor Township, Berks County, Pennsylvania.

33. Berks Hollow Energy Associates, LLC, D-2012-023 CP-1. An application to approve the applicant's new energy generating facility, Berks Hollow Energy, and its consumptive water use and discharge of NCCW (cooling tower blowdown). The proposed energy generation facility will be located in Ontelaunee Township, Berks County, Pennsylvania. The project consists of the construction of a 685-megawatt (MW) electric generation facility, employing a natural gas-fired combined-cycle combustion turbine, and equipped with duct burners to be employed during peak demand only, peaking capacity at 855 MW. The project includes the construction of a mechanical draft cooling tower and an auxiliary boiler/ fuel heater, along with a new IWTP to treat and discharge the cooling tower blowdown at a maximum flow rate of 1.4 mgd. Make-up water for the cooling tower will be provided by the Reading Area Water Authority (RAWA) and domestic sanitary wastewater generated at the facility will be sent to the existing Reading WWTP for treatment and discharge to the Schuylkill River. The new cooling tower blowdown discharge will be to the Schuylkill River, at River Mile 92.47 - 86.9 (Delaware River - Schuylkill River). The application also includes a Total Dissolved Solids (TDS) determination for the discharge of 2,000 mg/l.

Mr. Muszynski recommended that the Commissioners approve hearing items 21 through 33, consisting of new projects and projects not previously reviewed by the Commission. Chairwoman Heffner thanked Mr. Muszynski and his staff for their hard work in preparing the 33 dockets and asked the Commissioners for any questions or comments on dockets 21 through 33.

Regarding hearing item 21, PSEG/PPL, D-2010-018 CP-1, Ms. Siekerka noted that the New Jersey Division of Fish & Wildlife had performed a detailed review of the construction restoration standards furnished by PSEG for this project and found that the standards included all appropriate protections, restoration practices and measures to properly minimize and prevent environmental impact. She emphasized the depth of work that the states perform in their review prior to issuing state permits.

Ms. Heffner invited comments and questions from the public concerning hearing item numbers 21 through 33.

Summary of Hearing on Items 21-33. Thirteen individuals commented on projects in this group. Their names and the issues they raised are listed below. Responses by Commissioners are also summarized. A tape of the hearing is available on request from the office of the Commission Secretary.

Alex Lotorto: Susquehanna-Roseland [hearing item 21] is an extension of a larger energy project planned for increased capacity of an energy facility. DRBC should be minimizing projects like Berks Hollow [hearing item 33] and Susquehanna-Roseland as a matter of policy, and the Governors and the President who have oversight over the Commission should

be considering clean energy technologies instead of selling Delaware River water to these companies.

Margaret Wood: Aerial photos of tree removal show horrible scars on the landscape, wider than for Tennessee Gas Pipeline project and in a zigzag pattern, which could indicate company is felling more trees than necessary. Asked whether sponsor was selling the lumber. Old tree growth is essential to maintain the wetlands by preventing runoff and habitat. Project should not be approved because constitutes dirty energy and another fossil fuel. Surmised the company will be run by fracked gas since the majority of the gas currently provided in the area is fracked gas, which increases global warming two times more than coal or oil and given the BTUs of energy produced, would be worse than a coal or oil plant. Commissioners should only approve green energy projects such as wind towers and solar panels.

Doug O'Malley, Interim Director of Environment New Jersey: Power line [hearing item 21] is a massive project demanding full review by DRBC, not merely review of the section within Delaware Water Gap National Recreation Area. Line will range from the Pennsylvania Highlands to Roseland in Essex County and will create a massive scar with significant ground disturbances. Analyses needed of potential impacts on the DRBC Special Protection Waters. Ground disturbances along with composition of the line could be linked to climate change and extreme weather. For National Park Service to reverse its initial decision of a "no build alternative" was shameful, scarring the region's jewel, a place of national significance. Project may be an illegal maneuver by PSEG. Requested the Commission undertake thorough review.

James Rapp: Disturbances of uninterrupted forest land such as New Jersey Highlands invite invasive species laying fallow in soils. DRBC's decisions on pipelines and new power plants like Berks Hollow [hearing item 33] fed by natural gas facilitate fracking when the Commission has not made a final decision on fracking. Commission should assert its authority in protecting the area's largest drinking water supply. Slow down and consider the impacts of construction creeping higher and higher into Areas 1 and 2 before water quality degrades and comes down the river.

Iris Marie Bloom, Protecting Our Waters: Concerned about the 19,600 mg/liter TDS concentration for backwash discharged from Shinn Spring Water Company water bottling plant [hearing item 24]. Agreed with other commenters regarding power generation issues [items 21 and 33] and use of methane gas, primarily due to its climate change accelerant properties. Questioned how one-to-one mitigation of wetlands for the airport expansion project [item 27] could be equivalent to lost wetlands in terms of wildlife habitat, especially for birds, and when it is dispersed in twenty different locations. Asked how dredge spoil would be tested for PCBs and requested tests for DDT, noting DDT stays in the environment for a very long time, as do flame retardants, which are endocrine disruptors harming the reproductive capacity of wildlife.

Chairwoman Heffner explained that the Commonwealth, which is working with the sponsor on the airport project, understands that one-to-one replacement of wetlands is a minimum.

The ratio in the final permit may be different. She added that the scientific evidence is mixed on whether or not small wetland impacts are best replaced in larger pieces or if each individual small impact should be replaced discretely. That discussion is ongoing in Pennsylvania with the Corps as a partner. Ms. Heffner noted that the Corps and state documents and permits are still pre-decisional.

Lieutenant Colonel Chris Becking concurred. He added that the Corps has the very best interests of the nation at heart in implementing regulations and that some of the Corps' regulators working for him on the airport are the best in the business. He said the Corps has no problem calling the states or large corporations to account and holding them to the regulations.

Fred Stine, Delaware Riverkeeper Network: Susquehanna-Roseland transmission line [item 21] is 72 miles in length but the National Park Service (NPS) EIS and DRBC's review cover only 4.3 miles, six percent of the line. NJ and PA and municipalities have examined specific areas but have not addressed cumulative impacts on water resources of the Delaware River and Special Protection Waters (SPW). Four Commission actions needed today: (1) defer action on the docket as currently presented; (2) require a revised docket to address the full 72 miles within the basin; (3) provide a 90-day public comment period; and (4) conduct a cumulative impact assessment on the 72-mile project. DRBC has authority to do cumulative review under the Compact. Substantial and measurable impacts on SPW drainage area include disturbance of ground cover such as draining, filling or altering wetlands and marshes, and substantial encroachment on streams and 100-year floodplains. Docket says right-of-way could be widened by 50 to 175 feet. Seventy-two linear miles widened by 50 feet equal 436 acres of newly exposed and disturbed ground cover in the basin. Looking at just 4 miles misses assessing total, cumulative impact of the project.

NPS looked at only 0.43 square miles of wetlands within and immediately adjacent to the park but not the effect of these disturbances on natural resources of Delaware Water Gap National Recreation Area, Middle Delaware and the Appalachian Trail. NPS's preferred alternative, Alternative 2, would result in highest level of wetland impacts among those evaluated.

NPS determined overhead transmission lines won't impact floodplains. Vegetation removal beyond NPS area – from access roads, new tower pads, and right of way clearing – will affect natural floodplain values and contribute to ecosystem degradation. Floodplain degradation is within jurisdiction of DRBC through non-point source pollution control plans and cumulative impact analysis. NPS Final EIS concluded that a 6-percent reach of the project will have an impact on ground cover, wetlands and floodplains. Commission should provide public comment period on a revised draft docket addressing entire length of project. NPS EIS process involved at least three different public comment periods. The first generated 6,500 comments, of which 6,300 were letters. The second, on the preliminary analysis report, elicited 1,700 letters. NPS received 27,000 comments on its draft EIS. Response shows people of the Delaware Valley and from other states have great concern for the Delaware Water Gap National Recreation Area.

Ms. Heffner asked Mr. Muszynski to explain what DRBC's review involved. Mr. Muszynski said staff review of the project was based on the selected route through the DEWA (Delaware Water Gap National Recreation Area and the Appalachian National Scenic Trail). DRBC is relying on state and federal reviews (wetland, stream crossings, etc.) for portions of the line within the Basin but outside the DEWA. The Commission's primary focus is the SPW requirements. DRBC relies on the state and county approved non-point source pollution control plans to meet these requirements. Condition II.1 of the draft docket requires the docket holder to submit approved state and county soil and erosion control plans within 30 days of their issuance. Prior to initiation of construction in the DEWA, the docket requires the submission to DRBC of final plans and specifications and non-point source pollution control plans; and approval of those documents by the Executive Director (docket conditions II. f & l).

Elliott Rogala, Senior Policy Analyst, New Jersey Highlands Coalition (NJHC). Thirty-eight Highlands municipalities are within Delaware River Basin. Understanding is that DRBC is undertaking review of Susquehanna-Roseland transmission line because project falls into category of projects specified in Rules of Practice and Procedure (RPP) that exempts transmission lines from review unless they would pass across a recognized recreation project area – in this case, 4.7 miles of proposed 72 miles of disturbance within the Basin that is within Delaware Water Gap National Recreation Area. Since project is located within drainage area of SPW, project must have an approved non-point source pollution control plan. Because NPS issued Final EIS in September 2012 approving project's 4.7 miles through park, and project has received soil conservation district certification from Sussex and Morris Counties and certification from Warren County is pending, DRBC is prepared to approve this portion of project. Evaluation by DRBC is wholly dependent upon approvals of other agencies. DRBC has not independently analyzed the project, construction plans and methods. DRBC has not indicated by reference or otherwise if conditions, requirements and standards imposed by permitting agencies are greater, lesser or equal to those of DRBC. DRBC merely rubber-stamping permitting processes of other agencies. NJHC has larger concern: why has DRBC confined its consideration to only 4.7 miles of 72-mile disturbance within Basin? Section 2.3.5.A.12 of RPP also requires review of power or electric transmission line projects that "involve significant disturbance of ground cover affecting water resources." Project crosses ten Delaware Basin municipalities in Sussex, Warren and Morris Counties in NJ. Four of these – Byram, Hopatcong Borough, Sparta and Jefferson – are within NJ Highlands, a federally recognized and state protected region and source of more than half of New Jersey's potable water supply. Project crosses portions of these municipalities that are within Highlands Preservation Area, most stringently regulated part of the statutory Highlands region. In describing project, DRBC states that within crossing of national park, project right-of-way will be increased by 0.75 miles, adding 50 feet to existing right-of-way. DRBC does not contemplate impacts of widening right-of-way by 50 percent, which will cause measurable impacts by altering natural habitats and soils that will increase runoff, diminish groundwater recharge, alter hydrological conditions and invite invasive species. Draft docket contains no discussion of proposed restoration, mitigation or alternatives analysis. DRBC notes that disturbances within wetlands either are within existing right-of-way and therefore already disturbed or located within existing access roads. Fails to consider impacts of construction activity that will alter fragile ecological functions of wetlands. Existing access roads in many cases are mere fire trails and will require widening and grading to support construction traffic necessary for project.

Anticipated impacts will have consequences along entire route – another 30 or so miles within Basin in New Jersey alone – crossing open forested land and municipal, county and NJ state parks and wildlife management areas. Are PSEG's construction methods and plans different outside of national park? Is amount of additional right-of-way greater or are there other right-of-way access methods that have larger impacts in areas outside of national park? Are regulations for construction activity stricter or less strict than those of DRBC? Do they meet same standards for avoidance and mitigation? What are the restoration plans and how will restoration be monitored? DRBC must consider and answer these questions before can accurately answer whether or not the project would involve significant disturbance of ground cover affecting water resources. If fails to do so, is merely rubber-stamping.

Kate Millsapps, New Jersey Sierra Club (NJSC). Susquehanna-Roseland line [hearing item 21] will result in erosion, flooding, habitat destruction and impacts to wetlands along the 72-mile right-of-way and adjacent water bodies. Will severely disturb waterways that DRBC is entrusted with protecting. Crosses Delaware River within reach protected as a scenic and recreational under federal Wild & Scenic Rivers Act and classified as Special Protection Waters (SPW) under DRBC regulations. Applicable anti-degradation standard says no measurable change to water quality, but project cannot meet that standard with impacts of construction, erosion, drilling, blasting and clear-cutting. Project will result in major impacts to water body, wetlands and critical lands held in public trust and will conflict with the Comprehensive Plan. Project does not comply with DRBC water quality regulations because it will cause impacts to SPW. Urged Commissioners not to move ahead with approvals without final construction plans in place and no real mitigation plan. Sponsor's mitigation plans are vague measures without real actions. DRBC should exercise full jurisdiction and look at impacts of project on entire watershed and water resources, not just the four miles through park, including impacts from silt, sedimentation, pollution, lost vegetation cover and long-term maintenance activity in expanded right-of-way. Construction activities and equipment will result in soil compaction and more runoff into adjacent wetlands. Much of construction and new access roads will be located in steep slope areas where erosion is most severe and where significant blasting will occur. New towers and maintenance roads will be constructed in wetlands areas. Soil compaction will be permanent and deeply layered while vegetative regrowth will take many years. Could take decades for affected areas to return to full function if that is even possible. Wetlands are supposed to be protected for future generations and not turned over to power companies. Project will be scenic blight across Delaware Watershed and result in more flooding. Alternative route to project will continue to have impacts on Delaware River and Portland wetlands, Appalachian Trail and Highlands region. Denying approval is sole option to prevent destruction and abuse of critical resources.

Maya van Rossum, Delaware Riverkeeper. Regarding Philadelphia Airport expansion project [hearing item 27], asked that docket be pulled and decision-making deferred to allow more opportunity for public comment. Protested that when dockets are publicly noticed before each Commission meeting, there is not much time for the public to review the files, prepare comments, and/or make any necessary arrangements to be at the meeting to comment. A lot of people with a lot of good information on this project and Commissioners are entitled to hear that information before making a decision on the project.

Docket relies heavily on EIS documentation and public process associated with EIS but since EIS was finalized, have been many changes in watershed and much new knowledge gained regarding climate change, sea level rise, and how sea level rise is affecting river and basin: i.e., new listing of Atlantic sturgeon, which would be directly impacted by project; new finding on mussels that have impact on water quality in Delaware Estuary; new information about sub-aquatic vegetation in Delaware Estuary in this reach. All this info. has implications for water quality and health of river. Commissioners need benefit of new information and not simply relying upon old documentation for decision-making. Day's meeting began with discussion of making a resilient Delaware River re flooding, flood damages and flood control, yet project would fill in 25 acres of main stem, including 23 acres of non-tidal, open water wetlands and 81 acres of other wetlands. Development in the floodplain. New floodplain being created to do new development for this project. Project makes this basin and Philadelphia Airport less resilient re flooding and flood damages and more costly for residents who have to respond to resulting pollution, flooding, flood damages and economic losses. Discussions about Hurricane Sandy have implications for problem like this. Commissioners should honestly commit to flood resiliency in the Delaware River Watershed and reducing flood damages in the basin by rejecting docket. In the alternative, defer docket for benefit of additional thinking, additional information and consideration of new facts, science and experiences since CEP and EIS were finalized.

Cinda Waldbuesser, National Park Conservation Association (NPCA). Concerned about impacts to whole basin but particularly national parks. NPS's EIS violates organic statute requiring NPS to conserve and protect park resources from impairment. NPCA urges docket [hearing item 21] not be approved.

Mary Ellen Noble, Delaware Riverkeeper Network. Before approving airport docket [hearing item 27], consider what would happen to project and City of Philadelphia if Sandy had hit Delaware River rather than New York City with 10-, 12-, or 14-foot storm surge.

Re Shinn Spring Water Company [hearing item 24], drinking water bottler bringing in water from Susquehanna River Basin, bottling it here and then discharging processed wastewater into Schuylkill River with maximum allowable TDS of 19,500 mg/l. Instantaneous maximum amount of 68,050 mg/l averaged monthly is about seven times the DRBC effluent standard. Why is a water bottler discharging so much salt and how can DRBC allow this? If PADEP also has this under review with a new 500 mg/l effluent limit for TDS, how are they dealing with it? Acknowledge staff has said that once it is diluted, the discharge is a small amount, only about 75,000 gallons or 68,000 gallons a day.

Mr. Muszynski said this would be a new discharge location but not a new discharge. The facility has existed for years, discharging to a municipal sewage treatment plant, with discharge eventually reaching the Schuylkill River. The direct discharge will not have the benefit of dilution afforded by the plant. However, staff analyzed the impact on the Schuylkill River and found the direct discharge would satisfy all DRBC's requirements – it would not drive ambient TDS over 500 mg/l or result in exceedence of DRBC's limit of 133 percent of background. Asked by Ms. Noble whether a mixing zone was provided, Mr. Muszynski said that the mixing area would be very small for a 0.06 mg discharge to 100 million gallons in the river. Ms. Noble asked the Pennsylvania member if the discharge would satisfy Pennsylvania regulations. Ms.

Heffner said that on the basis of a mass balance calculation, it would. Ms. Noble noted that the discharge would again raise the background level of TDS in the river. Ms. Heffner replied that these determinations are site specific. Ms. Noble noted that 500 mg/l is not then a hard and fast effluent limit in Pennsylvania. Ms. Heffner concurred.

Elizabeth Tatham. Asked whether Commission had considered that when bromide in wastewater mixes with chlorine and other chemicals used in water treatment plants, byproducts are formed that are endocrine disrupters and/or carcinogenic. Mr. Muszynski explained [re hearing item 24] that a generic TDS was measured, but that Pennsylvania initially looked at individual components of the TDS. Ms. Tatham said fracking water contains bromides that combine with chlorine during treatment to produce carcinogenic byproducts. She urged the Commission to consider that as one of the reasons not to approve the docket [not clear which docket Ms. Tatham was referring to]. Mr. Muszynski said this project [hearing item 24] involved no fracking wastewater.

Margaret Wood commented [re hearing item 21] that only old growth trees are able to remove carbon dioxide from the atmosphere to mitigate global warming. When old growth trees are cut down, the twigs planted to replace them will not mitigate global warming for 100 years, since it takes that long to grow an old growth tree. NEPA requires an environmental impact statement to evaluate cumulative impacts of a proposed action. Cumulative impact means an impact on the environment which results from incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency – federal or non-federal – undertakes such other actions. Cumulative impacts can result from individually minor yet significant actions taking places over a period of time. That is from 40 C.F.R. 1508.7. If DRBC or USEPA did not perform such a study, then neither agency followed its regulations. Cumulative impacts include global warming as defined by USEPA.

Iris Marie Bloom, Protecting Our Waters. Supports Delaware Riverkeeper's position concerning City of Philadelphia Airport docket [hearing item 27]. If docket not rejected today then it should be deferred due to insufficient time for public comments. In terms of global warming and storm surges, project poses risk to Delaware River Basin and City of Philadelphia.

Hearing no further questions or comments, Chairwoman Heffner requested a motion to approve the thirteen dockets comprising hearing items 21 through 33. Ms. Siekerka so moved, Mr. Eaton seconded her motion and hearing items 21 through 33 were approved by unanimous vote.

Resolution Extending Docket No. D-69-210 CP Final (Revision 12) for the Limerick Generating Station Water Supply Modification Demonstration Project and Wadesville Mine Pool Withdrawal and Streamflow Augmentation Demonstration Project until December 31, 2013 or until the Delaware River Basin Commission Approves a Revised Docket, Whichever Occurs First. Mr. Muszynski explained that Limerick Generating Station currently operates under Revision 12 of its docket and subsequently approved resolutions. Staff has developed a comprehensive draft docket – Revision 13 – containing all the Commission's requirements for the facility in a single instrument. DRBC published the draft docket for comment on June 28, 2012 and held a separate hearing on the docket on August 28, 2012. The draft docket was available for public inspection sixty days before the hearing date, and the comment period

remained open for sixty days after the hearing date, closing on October 27, 2012. The comments submitted are currently under review, and a comment and response document is being prepared. The Commission's last action extended the current docket as amended through December 31, 2012. The resolution under consideration today would extend the existing docket and associated resolutions once more to allow sufficient time for the Commission to prepare a thorough response document in advance of consideration of a final action on Revision 13.

Hearing no comments or questions, Ms. Heffner requested a motion to approve the resolution to extend Docket No. D-69-210 CP Final (Revision 12) as amended for the Limerick Generating Station Water Supply Modification Demonstration Project and Wadesville Mine Pool Withdrawal and Streamflow Augmentation Demonstration Project until December 31, 2013 or until the Delaware River Basin Commission approves a revised docket, whichever occurs first. Ms. Stiller so moved, Mr. Eaton seconded her motion and Resolution No. 2012-6 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Engage an Expert Panel to Advise the Water Quality Advisory Committee (WQAC) and Commission on the Development and Use of a Delaware Estuary Eutrophication Model. The nutrient management strategy on which Commissioners received an update in September includes a recommendation by the Water Quality Advisory Committee (WQAC) for the formation of expert panels to advise the Commission and staff on, among other things, development of a new water quality model for eutrophication. Dr. Fikslin said the draft resolution authorizes the Executive Director to engage an expert panel for this purpose. Recommendations for panel members were submitted by members of the WQAC, the Nutrient Management Subcommittee of the WQAC and the staff. The resolution specifically names to the panel Dr. Steven Chapra of Tufts University, an expert on the Qual-2-K model, DRBC's current model used for the non-tidal Delaware; Dr. Carol Cerco of the U.S. Army Corps of Engineers, who developed the water quality model for Chesapeake Bay; Dr. Robert Chant of Rutgers University, who has expertise in regional ocean monitoring systems, one of which was developed for Delaware Bay; and Dr. Victor Bierman of LimnoTech, who has advised the Commission and staff regarding the PCB model. The resolution further provides that upon the recommendations of staff and after consultation with the Commission Chair, the Executive Director may engage additional experts, to the extent allocated funds allow, to complement the expertise of the named individuals. Funding for this effort in an amount slightly less than \$50,000 is available from the Section 106 grant and a penalty paid to the City of Philadelphia some years ago.

Commissioner Siekerka noted that if the available amount is less than \$50,000, the authorization should be limited to the lesser, available, amount. Dr. Fikslin said the amount of \$50,000 would cover the cost of up to four meetings of the panel, and that additional funding opportunities were being pursued. An exchange between Ms. Siekerka and Dr. Fikslin highlighted that currently available funding consists of \$20,000 in U.S. EPA Clean Water Act Section 106 Grant funds and \$24,750 in penalty funds, for a total of \$44,750. The proposed authorization would enable the named panel (with any additions deemed necessary) to recommend use of a specific model. Continuing use of experts to advise on applications of the model would require additional funding over future years. The nutrient management strategy is projected to be a four- or five-

year effort, including dissolved oxygen and other endpoints. Ms. Siekerka asked that the resolution be amended to limit the authorized expenditure to \$44,750.

Hearing no further comments or questions, Ms. Heffner requested a motion to authorize the Executive Director to engage an expert panel to advise the Water Quality Advisory Committee and the Commission on the development and use of a Delaware Estuary eutrophication model, at a cost not to exceed the amended amount of \$44,750. Ms. Siekerka so moved, Ms. Stiller seconded her motion and Resolution No. 2012-7 was approved by unanimous vote.

Resolution Authorizing the Executive Director to Award a Professional Contract for Consulting Services Associated with the Commission's Water Charging Program and Water Supply Storage Facilities Fund. Resolution No. 2010-9, amending the Commission's consumptive and non-consumptive water charging rates, directed the Executive Director (ED) to develop a proposal for evaluation of the water charging program by a third-party consultant and to establish an advisory committee. The ED subsequently established the Water Charges Advisory Committee, with membership of a broad spectrum of constituents, and the committee has met on several occasions. The ED, staff and advisory committee developed a scope of work associated with estimating the future replacement cost of the two federal reservoirs in which the Commission holds an interest, as well as evaluating other elements of the water charging program. An RFP was issued in May 2012 with a proposal submission deadline of July 13, 2012. The Commission received three timely proposals, which were ranked on a technical basis by a sub-group of committee members and staff. The firm of O'Brien & Gere received the top technical ranking and also submitted the lowest bid. On the evaluation committee's recommendation, the ED awarded the professional service contract to the firm of O'Brien & Gere in the amount of \$161,000. With the Commissioners' approval, staff will move forward with these studies. Funding is through the WSSFF.

Ms. Noble when the study report was expected. Mr. Gore said that assuming the Commissioners' approval today, the contract would go out by the end of the week. The study is anticipated to take approximately eight months.

Hearing no further questions or comments, Ms. Heffner requested a motion to approve the resolution authorizing the Executive Director to award a professional contract for consulting services associated with the Commission's Water Charging Program and Water Supply Storage Facilities Fund. Ms. Stiller so moved; Lieutenant Colonel Chris Becking offered a second, and Resolution No. 2012-8 was adopted by unanimous vote.

Resolution for the Minutes Authorizing the Executive Director to Award a Construction Contract to the Lowest Responsible Bidder for Courtyard Modifications Associated with the Ruth Patrick River Garden and to Amend the Authorized Amount of the Commission's Contract with T&M Associates to Include Compensation for Final Design and Bid Documents. The Commission has completed the final design for the Dr. Ruth Patrick River Garden. Construction documents have been prepared and a call for bids issued. Bids are to be received by January 31, 2013. The draft resolution: (1) authorizes the Executive Director to enter into a construction agreement with the lowest responsible bidder; and (2) authorizes additional funds for construction management and a small additional sum associated with the final design in bid preparation, both payable to the

engineer. A fixed sum, gifted by private sources, is available to complete the project. The contract will not be awarded in excess of that amount. Mr. Gore said the staff hoped to be in a position to report back to the Commissioners in March with results of the bid effort.

Hearing no comments or questions, Ms. Heffner requested a motion to adopt the Resolution for the Minutes authorizing the Executive Director to award a construction contract to the lowest responsible bidder for courtyard modifications associated with the Ruth Patrick River Garden and to amend the authorized amount of the Commission's contract with T&M Associates to include compensation for final design and bid documents. Ms. Siekerka so moved, Mr. Eaton seconded her motion and the Resolution for the Minutes of December 5, 2012 was adopted by unanimous vote.

Ms. Collier thanked the Commissioners and reminded everyone that Dr. Ruth Patrick had just turned 105 years old. The complete text of the resolution follows:

RESOLUTION FOR THE MINUTES

A RESOLUTION authorizing the Executive Director to award a construction contract to the lowest responsible bidder for courtyard modifications associated with the Ruth Patrick River Garden and to amend the authorized amount of the Commission's contract with T&M Associates to include compensation for final design, preparation of bid documents and construction management.

WHEREAS, by Resolution No. 2006-7 on March 1, 2006, the Commission established its intention to enhance the underutilized courtyard of the DRBC headquarters building by connecting this space to the mission of river basin management and naming it "The Ruth Patrick River Garden" in honor of Dr. Ruth Patrick's dedication to the Delaware River Basin; and

WHEREAS, the Executive Director has solicited donations and grants from individuals and non-regulated entities and has received contributions to support and augment Commission resources for this project; and

WHEREAS, by Resolution No. 2006-15 the Commission authorized the Executive Director to enter into an agreement for landscape and architectural services for the development of the Ruth Patrick River Garden; and

WHEREAS, the Commission has utilized the firm of Pickering, Corts and Summerson, Inc. and the firm of T&M Associates ("T&M") for these professional services; and

WHEREAS, the first phase of the project, including the design and construction of modifications to the DRBC Headquarters Building, has been completed; and

WHEREAS, in accordance with a Resolution for the Minutes dated May 10, 2012, the firm of T&M Associates has completed the final design and documentation for the project; and

WHEREAS, the Commission has issued a Request for Bids for the completion of the Ruth Patrick River Garden, which provides for bids to be received on or before January 31, 2013; and

WHEREAS, T&M has requested an incremental payment of \$3,000 to cover its costs for preparation of the final design and bid documents, and T&M estimates that the cost for management of bidding and construction will be \$10,000; and

WHEREAS, the payment amounts set forth above are within the amount previously allocated and currently available for this project and involve no incremental cost or contribution by the Commission; now therefore,

BE IT RESOLVED BY THE Delaware River Basin Commission:

1. The Executive Director is authorized to enter into an Agreement with the lowest responsible bidder for the construction of the Ruth Patrick River Garden. The contract sum shall not exceed the funds previously allocated for completion of this project.
2. The Executive Director is authorized (a) to amend the Commission's agreement with T&M Associates to include the additional sum of \$3,000 in payment for final design and bid documents; and (b) to engage T&M Associates for bidding and construction management services in the amount of \$10,000.
3. This Resolution shall take effect immediately.

ADOPTED: December 5, 2012

Public Dialogue Session. Twenty-two speakers addressed the Commission during this portion of the meeting. Each was allowed three minutes. Comments are capsulized as follows:

- Natural gas pipeline construction and operation pose risks to public health and safety and should be subject to most protective regulations available in the four states; cumulative impact of pipelines must be assessed before projects proceed. (E. Tatham)
- Commissioners are responsible for protecting integrity of DRB for future generations and must review pipeline projects. (D. Murphy for H. Shugarman, ClimateMama)
- Opposed to eliminating separate DRBC docket approvals for discharge projects (T. Carluccio, B. Handler, DCS)
- Economics of natural gas pipelines is such that public pays for accidents. (B. Handler)
- DRBC needs to oversee natural gas infrastructure projects. (J. Weiner)
- DRBC should review Williams-Transco line crossing Brandywine Creek. (C. Pryde, Wilmington, DE)
- Opposed to Tennessee Gas Pipeline Co. Northeast Upgrade Project through Wayne and Pike counties. (A. Lotorto, Energy Justice Network)
- DRBC needs to review pipeline projects; existing state soil and erosion control requirements are inadequate because weather has become more extreme. (G. Lotorto)

- Approving the Susquehanna-Roseland powerline facilitates fracking. (J. Rapp)
- DRBC's NEUP review was too narrow; review is needed on land disturbance and stream and wetland crossings. Revisiting Columbia 1278 and TGP 300-Line now would be a waste of time. Commission should evaluate and prevent harm from over 13 pipeline projects being proposed for DRB; should perform cumulative assessment (M. van Rossum, DRN)
- Reconsider DRN's petition to exercise jurisdiction over pipeline projects. (A. McGrath, Volunteer, DRN)
- NEUP will involve significant disturbance of ground cover affecting water resources. (A. Stemplewicz, DRN)
- Holistic review of pipeline projects is needed and DRBC should perform it. (O'Malley, Environment New Jersey)
- Ban use of dangerous nano-particles (in particular, C-60 fullerenes or "bucky balls"), commonly used by gas industry, in DRB (V. Sigstedt, Point Pleasant, PA)
- Protect the environment and public health by assessing impact of natural gas development in the basin before approving projects (R. Platt, Volunteer DRN, Protecting our Waters and Food & Water Watch)
- Federal government should review actions of the Commission regarding natural gas (J. Rapp)
- Weather disasters are causing huge and costly damage; pipelines will contribute to these costs by increasing erosion. (E. Nelson, Somerset, NJ)
- Regional perspective is needed in reviewing impact of pipeline projects on basin resources, because state and federal reviews are piecemeal; DRBC should perform such a review (K. Millsapps, NJ Sierra Club)
- Listed stream crossings, displayed before-and-after photos of right-of-way deforested for Columbia 1278 and Tennessee 300-Line in Pike County (J. Zenes, DRN)
- Pipelines pose safety risk of explosions and conflict with economy based on recreation (T. Clemens, NJ Resident)
- Commissioners should visit recently constructed right-of-way to see impacts first-hand; should undertake cumulative assessment of natural gas development in the basin because DRN will challenge in court if fail to do so (J. Davenport, DRN)
- Commissioners should reconsider decision denying petition to review all pipelines crossing the basin; tell governors and president that public is concerned about global warming and natural gas is worse than coal in long term; consider impacts of compressor stations in Wyoming, which can no longer meet federal ground level ozone requirements (I. Bloom, Protecting Our Waters)
- "Methane industry" is destroying environment, with consequences for public health; petition demanding that pipelines be subject to DRBC oversight should be subject to public hearing and comment; methane emissions from natural gas production make it twice as big a contributor to greenhouse gas emissions as coal or oil; pollutants from natural gas production enter air and water and contaminate food supply; natural gas production increases global warming. (M. Wood, Lakeland Unitarian Universalist Fellowship and Franciscan Response to Fracking)

[Editor's Note: A recording of the entire public meeting and a rough transcription of the Public Dialogue portion of the meeting are on file with the Commission Secretary and may be reviewed by appointment.]

Ms. Heffner expressed her appreciation to all who offered comment and thanked them for their attention and interest in the important matters considered. The meeting was adjourned at 5:45 p.m. with a motion by Ms. Stiller, seconded by Ms. Siekerka and unanimously approved by the Commissioners.

/s/ Pamela M. Bush

Pamela M. Bush, J.D., A.I.C.P.
Commission Secretary