

DELAWARE RIVER BASIN COMMISSION

MEETING OF JULY 11, 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
Richard C. Gore, Chief Administrative Officer
William J. Muszynski, Branch Manager, Water Resources Management
Amy Shallcross, Supervisor, Operations Section
John Yagecic, Supervisor, Standards and Assessment Section

Commission Chairwoman Kelly J. Heffner convened the business meeting at 1:30 p.m. with introductions by the Commissioners and key staff.

Chairwoman Heffner reported that the Commissioners were continuing to consult with one another and to work cooperatively to reach consensus on technical aspects of the draft Natural Gas Development Regulations. She added that as soon as additional information is available, the Commission will share it with the public.

Minutes. The Minutes for the Commission Meeting of May 10, 2012 were approved unanimously on a motion by Mr. Eaton, seconded by Ms. Siekerka.

Announcements. Ms. Bush announced the following meeting:

- *DRBC Flood Advisory Committee Meeting.* Wednesday, August 29, 2012 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 July 9, 2012 was 17.56 inches or 4.57 inches below normal. The observed precipitation for the Basin above Trenton for the same period was 17.50 inches or 5.30 inches below normal and for the Basin above Wilmington, Delaware for this period, 14.03 inches or 8.55 inches below normal.

The average observed streamflow of the Delaware River at Montague in June 2012 was 3,692 cubic feet per second (cfs) or 109.7 percent of the long-term average for the month. For the same period, the average observed streamflow at Trenton was 9,511 cfs, or 116.1 percent of the long-term average for the month.

For the period of July 1 through July 9, the average observed streamflow at Montague was 2,164 cfs, or 84.0 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 3,907 cfs, or 63.5 percent of the long-term average for the month.

In the Lower Basin, as of July 10, 2012, Beltzville Reservoir contained 13.94 billion gallons (bg) usable, or 100.1 percent of usable storage, and Blue Marsh contained 5.68 bg usable, or 101.3 percent of summer pool usable storage. As of July 9, Merrill Creek contained 15.060 bg usable, or 96.0 percent of usable storage.

In the Upper Basin, as of July 10, 2012, Pepacton Reservoir contained 130.954 bg usable or 93.4 percent of usable storage. Cannonsville contained 80.961 bg usable, or 84.6 percent of usable storage. Neversink contained 29.468 bg usable or 84.3 percent of usable storage. The total New York City Delaware Basin reservoir storage was 241.383 bg usable or 89.1 percent of usable storage.

During the month of June 2012, the location of the seven-day average of the 250-parts-per-million (ppm) isochlor, also known as the “salt line,” ranged from River Mile (RM) 67 to RM 70. The normal location of the salt line during June is RM 67, which is 11 miles downstream of the Delaware-Pennsylvania state line.

As of July 9, the salt line was located at RM 72, the normal location of the salt front during July.

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

- *DRBC Fiscal Year 2013 Budget Approval.* The Commission did not receive \$400,000 that had been approved as part of Pennsylvania’s FY 2012 Budget, because the sum was “frozen” and payment never made. Ms. Collier reported that the Commissioners unanimously approved a FY2013 budget during their public meeting of March 7, 2012 and that as of the July 11 meeting date, the member states all had finalized their respective budgets as well. The states of New Jersey and Delaware approved 100 percent of their respective “fair share” allocations for the Commission’s operating expenses. Pennsylvania reduced the amounts budgeted for all agencies, including the DRBC and SRBC, by 5 percent across the board. The State of New York approved a sum equal to

39 percent of its “fair share” contribution to the DRBC. The federal government continues to approve no contribution, a problem that DRBC continues to work to change. Ms. Collier summed up her budget remarks by noting this was not the best of years, but she was gratified that three of the states had approved 100 percent or nearly 100 percent of their fair share allocations for the DRBC for FY 2013.

- *DRBC-Initiated Grants and Contracts.*
 - *William Penn Foundation.* Ms. Collier noted that as she had reported in May, work in the Upper Basin was ongoing under a grant from the William Penn Foundation. DRBC has an agreement with the University of Vermont to develop detailed land use and land cover mapping for an eight-county area at a resolution of one meter. The project will generate much better land use and land cover maps than are currently available. As another element of the project that dovetails with this one, the USGS is delineating first- and second-order headwater streams – the very tops of the Basin’s sub-watersheds in the region – including portions of the basin underlain by the Marcellus Shale. A mitigation consultant also will be engaged for this grant-funded project.
 - *Water Charging Ad-Hoc Committee.* DRBC is convening an *ad hoc* committee to study the Commission’s water supply storage fund. The committee will re-examine the basis and formula for basin water supply charges among other tasks. An RFP has been issued for this work.
 - *Information Technology.* The Commission is upgrading its data management systems and developing an interactive web portal. Entities are being invited to test a system for submitting water use and water charging information electronically, and several entities have enrolled.
 - *U.S. Army Corps of Engineers – Philadelphia District.* One of the drivers for water management in the basin is the need to repel the salt line in the Delaware Estuary in order to protect the intakes of Philadelphia, New Jersey American and industries along the tidal Delaware River. DRBC has entered into a contract with the Corps of Engineers to link USACE’s salinity model and DRBC’s flow model. DRBC will provide in-kind services in lieu of a financial match. We will acquire a tool that can test scenarios to determine the location of the salt line and calculate the flow volume needed at Trenton under a variety of conditions.
 - *Pinchot Institute.* The Commission has received a grant from the Pinchot Institute to conduct a study on the Neversink River in New York State, linking water quality and land use. This is a 13-month study that will gather and analyze 20 parameters for 9 sites, to measure the quality of surface waters running off forests, agricultural land and urban land.
- *2012 Delaware River Sojourn.* The 2012 Sojourn, covering 75 miles of river in seven days, ended on June 30. Approximately 65 paddlers per day, ages 7 to 70, participated, of whom 25 took advantage of the “first time on the Sojourn” discount. Ms. Collier gave

special thanks to Kate O'Hara, DRBC's Assistant Communications Manager, who served as the Sojourn's Co-Chair. Ms. O'Hara was made Lord (Lady) High Admiral for a Day. A little white veil was fastened to her Admiral's hat because she will be married in August.

During the morning conference session Ms. Collier presented a resolution to former Pennsylvania Alternate Commissioner John T. Hines, recognizing him for his years of service to the Basin as he leaves Pennsylvania DEP to embark on a new career path. The complete text of the resolution follows:

RESOLUTION

A RESOLUTION recognizing John T. Hines for his years of dedicated public service in water resource management, and in particular for his service to the Delaware River Basin Commission.

WHEREAS, John T. Hines, a native of Pennsylvania and a Presidential Scholar, earned a Bachelor's Degree in Social Sciences and a Master's Degree in Geography and Regional Planning from the California University of Pennsylvania;

WHEREAS, John provided distinguished public service during his 18 years with the Pennsylvania Department of Environmental Protection;

WHEREAS, John held senior and executive management positions at DEP for more than a decade, including Executive Deputy Secretary for Programs, Deputy Secretary for Water Management, Executive Director of the Water Planning Office, Acting Director of Watershed Management, and Policy Director;

WHEREAS, as Pennsylvania's State Coordinator for the Delaware Estuary Program, John was one of the primary drafters of the *Comprehensive Conservation and Management Plan for the Delaware Estuary*, published in September 1996;

WHEREAS, among his many accomplishments over the years, John was a lead negotiator for DEP during the process that culminated in the landmark Water Resources Planning Act of 2002 ("Act 220"), which required the development of a State Water Plan to report on the availability, use, and projected demand for water in Pennsylvania;

WHEREAS, John briefly served as Commission Chair in 2003 when he was the Alternate to Governor Edward Rendell, and later served as Governor Rendell's Second Alternate from 2008 to 2010;

WHEREAS, Governor Tom Corbett appointed John as his Second Alternate on the DRBC in February 2011;

WHEREAS, John's solid understanding of complex issues, his sound judgment, his dedication to water resource protection, and his interpersonal skills have earned him the respect and admiration of his colleagues at the Commission and throughout the Delaware River Basin;

WHEREAS, John resigned from his DEP position in February of 2012 to pursue an opportunity in the private sector; now, therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

The Commissioners and staff extend their sincere appreciation to John T. Hines for his many contributions to the DRBC and the entire Delaware Basin community, his commitment to excellence in public service, and his friendship. We wish him and his wife Amy good health and happiness in the years ahead.

ADOPTED: July 11, 2012

General Counsel's Report. Mr. Warren reported that five active litigation matters are outstanding, all of which concern natural gas. Three of these matters have been consolidated in the Federal District Court for the Eastern District of New York (in Brooklyn). The argument of plaintiffs in that matter is that the Commission should have performed an environmental assessment under the National Environmental Policy Act (NEPA) in conjunction with the draft natural gas regulations. Motions to dismiss and cross-motions for summary judgment are pending, and oral argument is scheduled for July 24, 2012. The argument has been moved to 10:00 a.m. for those who are interested in attending. As of yet there has not been a list from the judge of the issues to be addressed at that argument. If the Commission receives such a list, it will be circulated among the Commissioners.

Two cases are pending in the District of New Jersey. One is an appeal of the Stone Energy Corporation withdrawal docket. The administrative record has been assembled but discussions with the plaintiff are ongoing regarding what the record should contain – whether it is complete or whether documents have been withheld that should be disclosed. The last case, also in the District of New Jersey, is an appeal of the Supplemental Executive Director Determination (SEDD). This challenge was thought to have been resolved as a result of a resolution by the Commissioners in December 2010; however the plaintiff disagrees. Motions to dismiss are pending. In both the Stone Energy case and the SEDD case, the court ordered the plaintiff to join the relevant drilling companies. As a result, the companies are parties to the cases as well.

Mr. Warren noted for the record that he was recusing himself from one matter on the Commission's Business Meeting Agenda involving a contract with the Academy of Natural Sciences. Mr. Warren sits on the board of the Academy.

Assistant General Counsel Report on Settlements. Ms. Bush reported on two settlement agreements.

The first resolved an alleged violation of DRBC's monitoring requirements by the Freeland Borough Municipal Authority. The Authority agreed to settle the matter, which involves no contested facts. The settlement is consistent with Section 2.7.8 of the Rules of Practice and Procedure, which provides for settlements in lieu of a penalty proceeding wherever it is in the interest of the Commission and the regulated party. Ms. Bush explained that the settlement amount corresponds to violations classified as minor or moderate on the civil penalty matrix adopted by the Commission in 2009 and is the lowest amount 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 said the settlement agreement would become final and effective upon the Commissioners' ratification. She asked them to approve it.

Hearing no questions or comments, Ms. Heffner requested a motion to ratify the settlement agreement with Freeland Borough. Ms. Stiller so moved, LTC Becking offered a second, and the settlement agreement with Freeland Borough Municipal Authority was unanimously approved.

The second settlement for which Ms. Bush requested approval was with the Lambertville Municipal Utilities Authority (LMUA). This settlement would resolve a disagreement that arose in 2009 over whether LMUA was obligated to apply for Commission approval for improvements to its sewage facility. An agreement in principal in the matter was reached in April of 2011, the terms of which were that LMUA would submit its application to the DRBC; DRBC would then prepare a draft docket that would not include certain Special Protection Waters (SPW) treatment requirements; and if the draft docket were acceptable to LMUA, the staff would recommend the docket for Commission approval. If the settlement is approved, LMUA will pay its docket application fee and will accept the docket. LMUA's right to challenge the meaning of the regulations in a future proceeding will be preserved.

Ms. Bush explained that staff had prepared a docket, LMUA had agreed to its terms, and today staff were recommending the docket to the Commissioners for their approval. She said that if after the public hearing there were no changes to the docket, she would ask the Commissioners to simultaneously approve the docket and ratify the settlement agreement. Their action would resolve the matter. She explained that if the docket were modified by the Commissioners as a result of what they heard during the public hearing, LMUA would have another chance to consider it, and staff would hope to be in a position to present a new version of the docket and the settlement agreement for the Commissioners' ratification in September. Ms. Bush reiterated that she was requesting no action at this point in the meeting, but when the Commissioners considered the docket later in the meeting, she would ask them to consider the settlement agreement as well.

Ms. Heffner reiterated that the Commissioners would defer consideration of the settlement agreement until they were ready to consider the docket later in the Agenda.

Public Hearing: Project Review Applications. Mr. Muszynski of DRBC presented for the Commissioners' consideration 22 of the 27 dockets originally listed in the public hearing notice. Consideration of five of the dockets noticed for hearing – those for Mount Holly Municipal Utilities Authority (D-1970-133 CP-4) (hearing item 2); Ferro Corporation (D-1968-143-2) (hearing item 13); Warren County – Pequest River Municipal Utilities Authority (D-1971-096 CP-5) (hearing item 16); Borough of East Stroudsburg (D-1992-072 CP-2) (hearing item 18); and Reading Alloys, Inc. (D-2011-023-1) (hearing item 24) – were postponed to allow additional time for review. The remaining dockets were presented in three groups: Category A, consisting of docket renewals involving no substantive changes (hearing items 1, and 3 through 12);

Category B, consisting of renewals involving significant changes, such as an increase or decrease in an authorized withdrawal or discharge (hearing items 14, 15, 17, 19, 20 and 21); and Category C, consisting of projects not previously reviewed by the Commission (hearing items 22, 23, 25, 26 and 27).

A. *Renewals with No Substantive Changes (hearing items 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12).*
The Commission received no comments on these projects.

1. Phoenixville Borough, D-1967-080 CP-3. An application to renew the approval of an existing discharge from the 4.0 million gallons per day (mgd) Borough of Phoenixville wastewater treatment plant (WWTP). The WWTP will continue to discharge treated effluent to the Schuylkill River at River Mile 92.47 - 35.0 (Delaware River - Schuylkill River) via Outfall No. 001. The WWTP is located within the Southeastern Pennsylvania Ground Water Protected Area (GWPA) in the Borough of Phoenixville, Chester County, Pennsylvania.
3. Deposit Village, D-1974-057 CP-3. An application to approve an existing discharge from the 0.7 mgd Village of Deposit WWTP. The Commission issued Docket No. D-1974-057 CP-2 approving the WWTP on December 12, 2006; however, the applicant submitted a docket renewal application after the expiration date of the docket (December 12, 2011). The applicant does not propose any modifications to the existing WWTP. The WWTP will continue to discharge to the West Branch Delaware River at River Mile 330.71 - 14.5 (Delaware River - West Branch Delaware River), 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 Deposit, Broome County, New York.
4. Pen Argyl Municipal Authority, D-1975-028 CP-3. An application to renew the approval of an existing discharge from the 0.95 mgd (hydraulic design flow) Pen Argyl Municipal Authority WWTP. No modifications to the Pen Argyl Municipal Authority WWTP are proposed. The discharge is located in the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters. The WWTP will continue to discharge to an unnamed tributary of Waltz Creek, a tributary of Martins Creek, at River Mile 190.6 - 4.4 - 3.2 - 0.7 (Delaware River - Martins Creek - Waltz Creek - UNT to Waltz Creek), in the Borough of Pen Argyl, Northampton County, Pennsylvania.
5. Kent County Levy Court, D-1977-087 CP-3. An application to approve the existing 16.3 mgd Kent County Levy Court WWTP. The WWTP treats domestic wastewater through the use of a biological nutrient removal (BNR) treatment system. DRBC previously issued Docket No. D-1977-087 CP-2 approving the WWTP on July 18, 2007; however, the docket holder submitted a docket renewal application after the expiration date of the docket (November 1, 2011). No modifications to the existing WWTP are proposed. The WWTP will continue to discharge to "The Gut," a tidal tributary of the Murderkill River, which is a tidal tributary of Delaware River Water Quality Zone 6, at River Mile 23.0 -

6.4 - 0.8 (Delaware River - Murderkill River - The Gut), in Milford Township, Kent County, Delaware.

6. Hatfield Township Municipal Authority, D-1985-036 CP-2. An application to renew the approval of an existing discharge from the 8.37 mgd Hatfield Township Municipal Authority WWTP. The WWTP will continue to discharge treated effluent to the West Branch Neshaminy Creek at River Mile 115.63 - 40.01 - 4.0 (Delaware River - Neshaminy Creek - West Branch Neshaminy Creek) via Outfall No. 001, within the Southeastern Pennsylvania GWPA, in Hatfield Township, Montgomery County, Pennsylvania.
7. Grand Central Sanitary Landfill, Inc., D-1988-052-3. An application to approve an existing discharge from the 0.1 mgd Grand Central Sanitary Landfill IWTP. The IWTP will continue to discharge treated leachate to the Little Bushkill Creek, a tributary of the Bushkill Creek at River Mile 184.1 - 8.5 - 8.6 (Delaware River - Bushkill Creek - Little Bushkill Creek). The DRBC most recently approved the IWTP by Docket No. D-1988-052 CP-2 on July 30, 2005; however, the docket holder submitted a docket renewal application after the expiration date of the docket (April 30, 2009). The IWTP is located within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Plainfield Township, Northampton County, Pennsylvania.
8. Pennsylvania American Water Company, D-1992-064 CP-3. An application to renew the approval of an existing discharge from the 7.0 mgd Coatesville WWTP. The project WWTP will continue to discharge treated sewage effluent to the West Branch Brandywine Creek, a tributary of the Brandywine Creek, which is a tributary of the Christina River at River Mile 70.7 - 1.5 - 20.0 - 15.5 (Delaware River - Christina River - Brandywine Creek - West Branch Brandywine Creek), in the Borough of South Coatesville, Chester County, Pennsylvania.
9. Veolia Energy, D-1995-010 CP-2. An application to renew the approval of the Tri-Gen Energy Generating Facility (TGEGF) and its subsidiary water allocation of up to 217 million gallons per month (mgm) supplied by Exelon's Schuylkill Generating Station (SGS) Intake No. 1. The water is used for cooling purposes associated with power generation. The requested allocation is not an increase from the previous allocation. The TGEGF is located on the former PECO - Schuylkill site adjacent to the Exelon SGS and Veolia's GFCF in the City of Philadelphia, Pennsylvania.
10. Paradise Stream Resort, D-2006-020-2. An application to renew the approval of an existing discharge from the 0.05 mgd Paradise Stream Resort WWTP. The discharge is in the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters. The WWTP will continue to discharge treated effluent to Yankee Run, a tributary of Paradise Creek, which is a tributary of the Brodhead Creek at River Mile 213 - 13.7 - 6.0 - 1.0 (Delaware River - Brodhead Creek - Paradise Creek - Yankee Run), in Paradise Township, Monroe County, Pennsylvania.

11. Royersford Borough, D-2006-045 CP-2. An application to renew the approval of an existing discharge from the 1.0 mgd Royersford Borough WWTP. No modifications to the Royersford Borough WWTP are proposed. The WWTP will continue to discharge to the Schuylkill River via existing Outfall No. 001 at River Mile 92.47 – 41.03 (Delaware River – Schuylkill River), in Upper Providence Township, Montgomery County, Pennsylvania.
12. Laurel Pipeline Company, LP, D-2007-040-2. An application to renew the approval of an existing discharge from the 70,000 gallons per day (gpd) Booth Station industrial wastewater treatment plant (IWTP). The IWTP treats groundwater from three (3) remediation wells through the use of an air stripper treatment system. The IWTP will continue to discharge to the Green Creek at River Mile 82.9 - 8.5 - 2.4 - 2.4 (Delaware River - Chester Creek - West Branch Chester Creek - Green Creek), in Bethel Township, Delaware County, Pennsylvania.

Mr. Muszynski recommended that the Commissioners approve hearing items 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12), consisting of docket renewals without substantive changes. Hearing no questions or comments, Ms. Heffner requested a motion to approve this category of dockets, Ms. Stiller so moved, Ms. Siekerka seconded her motion, and hearing items 1, and 3 through 12 were approved by unanimous vote.

B. Renewals with Substantive Changes (hearing items 14, 15, 17, 19, 20 and 21). Mr. Muszynski introduced the next category of dockets consisting of renewals involving significant changes.

14. Sunoco, Inc., D-1969-115-3. An application to renew approval of the existing 10 mgd Girard Point Refinery (GPR) IWTP (Outfall No. 015) and two non-contact cooling water (NCCW) outfalls (Outfalls Nos. 004 and 011). The PADEP and DRBC have based effluent limits for the discharges on flows of 6.22 mgd, 1.3 mgd, and 1.2 mgd, respectively. The project will continue to discharge to Water Quality Zone 4 of the Delaware River at or near River Mile 92.47 - 2.27 (Delaware River - Schuylkill River), in the City of Philadelphia, Pennsylvania.
15. Lambertville Municipal Utilities Authority, D-1969-150 CP-2. An application to approve work on the existing 1.5 mgd Lambertville Municipal Utilities Authority WWTP that was performed during 2010 and 2011. The LMUA WWTP will continue to discharge treated effluent to the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, at River Mile 148.4 (Delaware River) in the City of Lambertville, Hunterdon County, New Jersey.

The construction undertaken in 2010-2011 that is approved by the docket involved no change to the existing capacity of the treatment facility. Rather, it consisted of replacement of critical components of the facility. Lambertville and the DRBC disagreed about how DRBC rules should be applied to the project; however staff and LMUA have reached agreement on the docket.

17. ArcelorMittal Plate, LLC, D-1979-026-2. An application to modify the DRBC approval of the existing ArcelorMittal Conshohocken IWTP, including updating the approval to reflect the current facility operations and annual average flow of 1.2 mgd. No modifications to the IWTP are proposed. The IWTP will continue to discharge to the Schuylkill River at River Mile 92.47 - 21.5 (Delaware River- Schuylkill River), in Plymouth Township, Montgomery County, Pennsylvania.
19. Delaware Water Gap Borough, D-1997-032 CP-2. An application to renew the approval of an existing GWD of up to 11.0 mgm to supply the applicant's public water supply system from existing Wells Nos. 4, 6, and 7 in the Poxono Island and Bloomsburg Formations. The allocation is reduced from the previous allocation of 15.5 mgm. The wells are located in the Delaware River and Cherry Creek Watersheds 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 Delaware Water Gap Borough, Monroe County, Pennsylvania.
20. Chalfont–New Britain Township Joint Sewage Authority, D-1999-063 CP-2. An application to upgrade and expand the existing Chalfont-New Britain Township Joint Sewage Authority WWTP. The project includes expanding the average annual design flow from 4.0 mgd to 4.625 mgd and modifying the influent pumping, grease/grit facility, equalization basins and oxidation ditch treatment process. The WWTP will remain at a hydraulic design capacity of 6 mgd and continue to discharge treated domestic effluent to the Neshaminy Creek at River Mile 115.63 - 37.4 (Delaware River - Neshaminy Creek), in Doylestown Township, Bucks County, Pennsylvania.
21. Audubon Water Company, D-2004-004 CP-3. An application to renew the approval of a GWD of up to 1.395 mgm to supply the applicant's public water supply system from new Well No. TP-4 and to retain the existing total system allocation of 51.45 mgm from 18 additional existing wells. The new well is located in the Stockton Formation in the Schuylkill River Watershed, within the Southeastern Pennsylvania GWPA in Lower Providence Township, Montgomery County, Pennsylvania.

Mr. Muszynski recommended that the Commissioners approve dockets 14, 15, 17, 19, 20 and 21 consisting of renewals involving substantive changes. He reminded the Commissioners that simultaneously with consideration of docket D-1969-150 CP-2 for LMUA (hearing item 15), they were asked to consider approving the settlement agreement described by Ms. Bush. Ms. Heffner invited questions or comments on the dockets other than that for LMUA, which she said she would return to.

Mary Ellen Noble of the Delaware Riverkeeper Network asked whether Pennsylvania through its NPDES permit had imposed on the Sunoco facility any requirements implementing Clean Water Act section 316(b). Mr. Muszynski explained that the DRBC draft docket, D-1969-115-3 (the subject of hearing item 14), does not address section 316(b) because this requirement of the Clean Water Act is implemented entirely by the states. Ms. Heffner explained that she did not have the permit in front of her and so could not answer the question. Ms. Noble said that she

hoped very much that Pennsylvania was paying careful attention to intake facilities with projects such as this. She said she was very disappointed that DRBC was not addressing intakes and that if Pennsylvania was not doing so, DRBC should be.

Hearing no further questions or comments on these five dockets, Ms. Heffner asked the Commissioners for a motion to approve hearing items 14, 17, 19, 20 and 21. Mr. Eaton so moved, Ms. Heffner offered a second and hearing items 14, 17, 19, 20 and 21 were approved by unanimous vote.

Chairwoman Heffner invited any further questions or comments before consideration of the Lambertville docket (hearing item 15) and accompanying settlement agreement.

Ms. Noble of the Delaware Riverkeeper Network asked whether the settlement would affect the SPW requirements of the docket. Mr. Muszynski explained that the disagreement between DRBC and LMUA concerned application of the Best Demonstrable Technology (BDT) provision of the SPW regulations. The regulations provide that for facilities already in existence at the time of SPW designation, the more stringent of (a) BDT or (b) effluent limits determined on the basis of a no measurable change analysis, will be applied to all loadings in excess of those discharged at the time of designation. Because the water quality control point is seven miles downstream from LMUA's outfall, in this instance, limits based upon a no measurable change analysis would not be more stringent than BDT. Accordingly, the BDT requirements would apply to any loading above that discharged at the time of designation. Mr. Muszynski explained that the applicant had followed state procedures in undertaking the project, possibly without fully understanding the Commission's requirements, which were new at the time. Urgency on the part of LMUA to proceed quickly in order to qualify for federal economic stimulus money contributed to the confusion.

Ms. Noble requested assurance that this settlement would not be a precedential retreat from application of the SPW requirements. Ms. Bush replied that the settlement agreement expressly preserves both the Commission's view of how the rule is to be applied, and LMUA's right to challenge it in the future. Tracy Carluccio, also of DRN, said that DRN objects to the settlement agreement on grounds that the state should have understood and ensured implementation of the Commission's requirements and that other river towns had secured federal stimulus dollars for comparable projects and still complied with all treatment requirements. She said DRBC should not agree to settlement terms that amounted to "giving in" and letting LMUA "off the hook." She cautioned that failing to apply all SPW the requirements in this instance would create a slippery slope, erode the impact of the regulations and jeopardize the no measurable change objective. She urged the Commission to protect SPW and keep the exceptional water quality in place.

Thomas Horn, Executive Director of the LMUA, explained that the facility upgrades, including the replacement of antiquated equipment with the support of federal funds, would improve effluent quality and thereby benefit the river. Thus, in LMUA's view, the matter was appropriately settled. He said LMUA appreciated the efforts of the Commission staff in resolving the conflict in a graceful way. In sum, he said that because the impact on the river would be positive, the Commission should approve both the settlement and the docket.

Jeff Tittel, Director of the New Jersey Chapter of the Sierra Club and a resident of Lambertville, said the purpose of the upgrade was to address an odor problem. He said he and his organization had hoped the upgrade would address odor and also improve water quality, but he believes it accomplished neither. He added that the point was to preserve the Special Protection Waters.

Mr. Warren said he had participated in some of the discussions with Lambertville. He explained that early on there had been a question about the extent to which the facility was being upgraded. He believes the Commission understood the upgrade would be positive for water quality. The question was: at what point do replacements of equipment in a facility become “substantial additions” under the SPW regulations? Mr. Warren said the applicant took the position that the amount of replacement undertaken did not rise to the level of “substantial additions” triggering the BDT requirements. The Commission pushed back. But the issue is one on which reasonable minds could differ. Because the upgrade was positive for the environment and because the Commission was not setting a precedent, the Commission was willing to enter into a settlement agreement that preserved its position as to future upgrades. Mr. Warren said that to DRBC, this resolution seemed a reasonable way of having the municipality proceed with something positive for the environment, while at the same time preserving the Commission’s view that it may need to step in at a future time. Under the circumstances, he said, the settlement seemed to be a reasonable compromise.

Hearing no further questions or comments, Ms. Heffner requested a motion to both approve the Lambertville docket and ratify the accompanying Settlement Agreement. Mr. Eaton so moved, Ms. Siekerka seconded his motion and Lambertville Municipal Utilities Authority, D-1969-150 CP-2 and the Settlement Agreement between DRBC and LMUA was approved by unanimous vote.

C. New Projects (hearing items 22, 23, 25, 26 and 27). These five projects comprised new discharges or withdrawals or constituted projects new to the Commission.

22. Thompson Town, D-1985-075 CP-2. An application to approve an existing discharge from the 0.5 mgd Sackett Lake WWTP. The WWTP will continue to discharge treated effluent to Sackett Creek at River Mile 261.1 - 4.6 - 3.37 - 1.29 - 3.82 - 2.17 (Delaware River - Mongaup River - Rio Reservoir - Mongaup River - Mongaup Falls Reservoir - Sackett Creek) via Outfall No. 001. The discharge is in 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 Town of Thompson, Sullivan County, New York.

23. Tennessee Gas Pipeline Company, LLC, D-2011-022-1. An application to approve a SWWD from two sources located on the Lackawaxen and Delaware Rivers to supply a temporary withdrawal of up to 5.946 mg of water for the applicant’s natural gas transmission pipeline upgrade project. The allocation will be used to conduct horizontal directional drilling and hydrostatic testing associated with the pipeline upgrade. The project also approves the discharge of hydrostatic testing water in three locations to the land surface after completion of hydrostatic testing. The project is located in Berlin,

Texas, and Palmyra Townships in Wayne County, Pennsylvania, Westfall and Milford Townships in Pike County, Pennsylvania, and Montague Township in Sussex County, New Jersey. Portions of the project are located within the drainage area of sections of the non-tidal Delaware River known as the Upper and Middle Delaware, which are classified as Special Protection Waters.

The water would be recovered from this testing and then would be returned to three locations – two in Pennsylvania and one in New Jersey – for surface water disposal. The water would be land-applied by means of baffling and hay bale systems and allowed to percolate back into the groundwater. No water may be withdrawn from the Lackawaxen River unless a pass-by streamflow of 25% of the average daily flow will remain in the stream. A maximum intake velocity for these withdrawals is established, and an invasive species control plan must be submitted and approved before the withdrawal site is prepared and the withdrawal commences. The docket requires that all state and local approvals be obtained as well and that the Commission to be notified prior to the initiation of withdrawals.

25. Thompson Town, D-2011-025 CP-1. An application to approve an existing discharge from the 0.038 mgd Melody Lakes WWTP. The WWTP will continue to discharge to Turner Brook at River Mile 253.64 - 14.52 - 7.05 - 2.27 (Delaware River - Neversink River - Bush Kill - Turner Brook) via Outfall No. 001. The WWTP is located 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 Town of Thompson, Sullivan County, New York.
26. Lower Bucks County Joint Municipal Authority, D-2012-001 CP-1. An application to approve the discharge of up to 0.7 mgd of filter backwash from the existing Lower Bucks County Joint Municipal Authority Water Filtration Plant (WFP). The WFP will continue to discharge treated effluent to Water Quality Zone 2 of the tidal Delaware River at River Mile 122.3 (Delaware River) via Outfall No. 003, in Tullytown Borough, Bucks County, Pennsylvania.
27. PECO Energy, D-2012-015 CP-1. An application to approve the withdrawal and discharge of up to 0.288 mgd (8.928 mgm) of groundwater and occasional stormwater captured by dewatering operations during the remediation of subsurface soils at the former PECO Energy Norristown Manufactured Gas Plant (MGP) site. Water captured during the excavation and removal of MGP impacted soils will be treated with a temporary on-site water treatment system and discharged to either the Norristown Municipal Waste Authority wastewater treatment plant or the Schuylkill River at River Mile 92.47 - 23.5 (Delaware River - Schuylkill River). The project is located within the Southeastern Pennsylvania GWPA in Norristown Borough, Montgomery County, Pennsylvania.

Mr. Muszynski recommended that the Commissioners approve hearing items 22, 23, 25, 26 and 27, consisting of new projects and projects not previously reviewed by the Commission.

Chairwoman Heffner invited questions or comments. The following people spoke in opposition to the Tennessee Gas Pipeline Company, LLC, Docket No. D-2011-022-1 (hearing item 23) (in the order in which they spoke): Aaron Stemplewicz, Delaware Riverkeeper Network (DRN); Tracy Carluccio, DRN; Kerry Butch, League of Women Voters (LWV) of New Jersey; Elizabeth Tatham (LWV); Eileen Ahearn, resident of Lackawaxen Township, Pike County, PA; Pam Lewis, resident of Watchung, NJ; Winifred Olsen, Lackawaxen River Conservancy; and Jim Kelly, resident of Rowland, PA. The commenters asked the Commission to vote “no” or to postpone their vote on a variety of grounds, including: concern that clearing and construction activity would result in sedimentation and soil erosion into streams and spread of invasive species; risk of adverse impact on DRBC Special Protection Waters; alleged continuing violations by the project sponsor or its contractors of PADEP erosion and sediment control permit requirements on the TGP 300 Line Project; alleged inadequacy of the FERC environmental construction plan; alleged obligation on the part of DRBC to consider cumulative impacts of multiple proposed or approved natural gas pipeline and accompanying infrastructure projects; alleged deficiency of DRBC review as to construction, operation and maintenance practices and thus need for more comprehensive review based on “significant disturbance of ground cover affecting water resources”; and diminished streamflows as a result of the Lackawaxen River withdrawal. A transcript prepared by staff is provided as Attachment A to these Minutes. The transcript was not created by a professional court reporter but is accurate to the best of staff’s ability. A recording of the entire public hearing remains on file with the Commission Secretary and may be reviewed upon request.

Ms. Heffner thanked Mr. Muszynski and requested a motion from the other Commissioners concerning the last set of dockets, hearing items 22, 23, 25, 26 and 27. Ms. Stiller so moved and Mr. Eaton seconded her motion. The Chair invited additional discussion among the Commissioners.

Ms. Siekerka, representing New Jersey Governor Christie, thanked Mr. Muszynski for an excellent summary, and emphasized the importance of understanding DRBC’s review of the water withdrawals and discharges as one element of a much larger, multi-jurisdictional project. She said that the Commission’s proposed action was based on DRBC’s authority and jurisdiction over specific activities. Because the project sponsor had satisfied the DRBC’s requirements applicable to those activities, she said, she would be voting in favor of approval. Addressing the commenters, Ms. Siekerka said she was certain they had attended other public meetings on this project conducted by entities with other jurisdictional authority, noting that at NJDEP, staff have worked hard over an extended period to coordinate state permitting, including a great deal of time devoted to addressing the impact of the project on the state. She said that NJDEP takes its regulatory role in the protection of water very seriously, applying its own testing protocols and standards to prevent adverse effects. She said that although these points were made earlier, she wanted the commenters to hear this from New Jersey directly to ensure they understood why New Jersey was supporting the docket approval today.

Ms. Heffner said these were excellent comments and that Pennsylvania could echo them. Hearing no further questions or comments, Ms. Heffner requested a vote on the motion to

approve, which had been seconded. The Commissioners adopted the final set of dockets – hearing items 22, 23, 25, 26 and 27 – by unanimous vote.

Resolution Authorizing the Executive Director to Renew an Agreement with the Academy of Natural Sciences of Drexel University for the Analysis of Ambient Water and Wastewater Samples from the Non-tidal Delaware River. John Yagecic, DRBC Supervisor of Standards and Assessment, explained that all of the work to be performed under the renewed agreement is funded by DRBC's section 106 grant from the U.S. EPA; through a cooperative agreement with the National Park Service authorized by DRBC Resolution No. 2009-7; and through a grant from the Otto Haas Trust, approved by Resolution No. 2011-2. All of the work to be performed also has been initiated in some way, and the intent is to bring these projects to completion with continuity of lab services. The total dollar amount for the work to be performed under the renewal would not exceed \$8,500.

Hearing no questions or comments, Ms. Heffner requested a motion to approve the resolution authorizing the Executive Director to renew an agreement with the Academy of Natural Sciences of Drexel University for the analysis of ambient water and wastewater samples from the non-tidal Delaware River. Ms. Siekerka so moved, Mr. Eaton seconded her motion and Resolution No. 2012-5 was adopted by unanimous vote.

Public Dialogue Session. Several speakers addressed the Commission during this portion of the meeting.

Mary Ellen Noble of the Delaware Riverkeeper Network (DRN) welcomed LTC Becking. Noting his military patches, which she understood to show he had been a ranger and sapper and had performed mountain maneuvers, she called upon him to exercise the force, maneuverability, determination and honor required to ensure that the USACE's request of Congress for the federal government's share of annual funding for the DRBC, makes it past all opposing forces and into the hands of Congress at the earliest opportunity. LTC Becking thanked her for her comments, said it was good to be back in this part of the country and noted that in these difficult economic times, the federal government has to make difficult funding decisions. Ms. Noble said the LTC's honor was on the line to get the request to Congress, that his predecessors had failed in this mission and that she believed he was the man to do it. LTC Becking thanked her for her confidence.

Tracy Carluccio of DRN expressed interest in and support for the detailed land use, land cover and headwater streams mapping project described by Ms. Collier earlier in the meeting. At Ms. Carluccio's request, Mr. Gore said that she would be welcome to review the Commission's RFP for consultants on the project, as well as the proposals received. Ms. Carluccio urged the Commission to expand the geographic scope of the project to extend south into areas of the basin underlain by the Utica Shale and the Newark Basin. Ms. Collier explained that the terms and amount of funding for the current project limited its scope to the Upper Basin. Ms. Carluccio also expressed frustration that public notice was not provided earlier for hearings such as that on the TGP Northeast Upgrade Project. She asked the Commission to ensure greater public participation in its decision-making process by finding a way to give earlier notice of possible Commission action – either by holding hearings at one meeting and votes at another, by providing for an extended written comment period, or by some other method.

Jim Cosgrove of OMNI Environmental, speaking on behalf of Mount Holly Municipal Utility Authority (MHMUA), thanked the Commissioners for postponing action on the Mount Holly docket, which had been on the day's agenda. He noted that representatives of MHMUA and DRBC had had a productive meeting the previous day. Mr. Cosgrove also noted that in recent years his clients had been receiving effluent limits in DRBC dockets as well as in state NPDES permits. He said that this system sometimes caused confusion and that his clients at times did not fully recognize their DRBC-based limits. He recommended that all limits, including those based on DRBC requirements, be placed in the state NPDES permits. William Dunn, Executive Director of MHMUA, added that a longer period of notice before a hearing date would be beneficial.

Pam Lewis of Watchung, New Jersey objected that the rate charged by the Commission for surface water withdrawals was not sufficient to compensate the citizens of the State of New Jersey at a time when state government was short of funds. She also expressed her frustration that the Commissioners had not delayed their decision on the TGP Northeast Upgrade Project when citizens had traveled as much as three hours to comment on this project during the public hearing. She said that in her view the Commissioners had not given adequate consideration to the citizens' concerns about trees, erosion, fish and noise or the impact of pipeline projects on the quality of life of affected citizens.

A recording of the entire public meeting, including the Public Dialogue portion of the meeting, remains on file with the Commission Secretary and may be reviewed by appointment.

Ms. Heffner expressed her appreciation to all who provided oral testimony that day, and thanked them for their attention and interest in the important matters considered. The Delaware River Basin Commission Meeting of July 11, 2012 was adjourned at 3:50 p.m.

/s/ Pamela M. Bush

Pamela M. Bush, Esquire
Commission Secretary

ATTACHMENT A

ORAL TESTIMONY ON TENNESSEE GAS PIPELINE PROJECT DOCKET NO. D-2011-022-1 – JULY 11, 2012

Editor's Note: This transcript was prepared by a DRBC secretary from a recording, and not by a professional court reporter. It is accurate to the best of staff's ability but may include inadvertent errors. Speakers are encouraged to contact Pam Bush, Commission Secretary and Assistant General Counsel, at pamela.bush@drbc.state.nj.us to report any errors that alter the speaker's intended meaning. The recording is a public record, which remains on file at the DRBC and is available for inspection by appointment.

Aaron Stemplewicz: I am a staff attorney at the Delaware Riverkeeper Network and I'm going to be highlighting today a number of the comments that we have submitted before the Commission regarding this water withdrawal docket.

First, the position the DRN has taken is that the Delaware River Basin Commission not improve the above-referenced draft docket for TGP's project. After reviewing the docket, DRN is determined that the water withdrawal docket under consideration by the Commission is premature and improper, is sought by an operator with a history of flagrant and continuous noncompliance of regulatory controls, lacks a comprehensive analysis of cumulative impacts, fails to include the requisite levels of specificity and will negatively affect water quality, quantity and flow rates.

The planned locations for the Delaware River intake site and Loop 323 discharge site are not yet final. The proposed route for this pipeline project is currently being challenged at the Federal Energy Regulatory Commission by a number of interveners including the Pike County Board of Commissioners and several landowners who are encouraging FERC to co-locate that section of pipe on the existing right-of-way. If their appeal is ultimately successful, the HDD drilling site may change, thus necessitating a change of the plan of the Delaware River intake site and the Loop 323 discharge site under consideration here. As such, the Commission should wait until FERC has made their final ruling before considering the docket. Additionally, the Northeast Upgrade Project [does not] only need[s] approval by another federal and state agency before it is able to move forward. To date numerous permits remain outstanding or have been cited as deficient by regulatory agencies. The Commission should not approve the docket prematurely as the project as a whole may not move forward, and to the extent that it does move forward, may be significantly different in size and scope from the currently proposed project. A coalition of environmental groups including DRN, the New Jersey Highlands Coalition and the New Jersey Chapter of the Sierra Club have obtained intervener status before FERC and are currently appealing FERC's environmental analysis and approval of the NEUP project. This appeal includes challenging the project's underlying supportive documents such as the environmental constructive plan which the Commission here has relied upon in evaluating this docket.

FERC has issued an order granting an extension of time for further consideration of these issues cited in the impending hearing request. TGP's continuous and systemic compliance and regulatory failures strongly [argue] against the approval of this docket. The high frequency of violations at both state and federal levels demonstrate that there are continuous and systemic failures in TGP's compliance with regulatory controls. As such, the Commission should not allow TGP to move forward with this docket until such time that TGP comes into full compliance in its previous project, the 300 Line Upgrade Project, which was put into effect in November of 2011, and the Commission is assured that TGP has in place assistance and protocol if necessary to avoid future violations. Many of these violations that previously occurred involve mitigation

measures and procedures that are similar if not identical to the mitigation measures proposed in the draft docket. For example, in Pike County for the 300 Line Upgrade Project, there were no fewer than 19 notices of violations reported, which included at least 17 instances of dirt and sediment being discharged into water bodies, 7 violations for work site conditions and 21 instances of failure to properly institute best management practices for erosion and sediment control. In Wayne County, out of 16 inspections conducted by the local county conservation district, 15 violations were incurred. The number of past violations amassed in Pike County and the startling 93% failure rate in Wayne County alone provide strong evidence of chronic compliance failures by TGP. As late as April 14, 2012 Pike County Conservation District issued a Notice of Violation for TGP's failure to implement effective erosion and sediment control best management practices and to install erosion control matting, causing sediment and other pollution discharges into the waters. It is entirely premature for the Commission to approve the pending docket at this time before TGP has demonstrated it has the ability and will to comply fully with all permit terms and requirements imposed for water and resource protection. Additionally, the Commission should exercise its authority to require TGP to submit all appropriate application materials and information so the Commission may review the project in total, including its construction, installation, operation and maintenance.

The Delaware Riverkeeper has submitted three letters dated in February, March and May of this year, requesting the Commission to exercise its legal authority to regulate pipeline projects in the basin. As noted in DRN's previous letters, the Commission has the authority to regulate pipeline construction activities that involve "significant disturbance of ground cover affecting water resources" pursuant to Article 3, Section 2.3.5. A.12 of the Rules of Practice and Procedure. To date the only response the DRN has received in regard to any of these letters indicates they believe the NEUP did not, in the view of DRBC staff, involve a significant disturbance of ground cover affecting water resources. The Commission provides no further explanation in the letter about how a project that involves 102 water crossings with clearance of over 120 acres for a new permit right-of-way, the disturbance of over 810 acres by construction activity and the staging and withdrawal of up to roughly 6 million gallons of water does not involve a significant disturbance of ground cover affecting water resources. Indeed, it is premature for the Commission to make this determination in the absence of a full docket application detailing the projects' clearing, construction and operational plans. How the Commission acts now will set a precedent for how future pipeline projects in this watershed will be approached.

Furthermore, the Commission must analyze, consider and address adverse impacts of the cumulative water withdrawals that are currently occurring as the result of pipeline construction and expansion activities in the basin within the last 18 months, where there have been no fewer than six major pipeline construction projects that require water withdrawals for pipe integrity testing. The failure of the Commission to address how the use of water and gas infrastructure development and the disturbance and change of existing ground cover will affect the basin's water resources is a violation of the Commission's regulations and procedures. It is important to recognize that there are no other regulatory agencies at the regional, state or national level that are looking at the cumulative impacts of all the pipelines needed to service gas well pads that may be installed and become operational. There is certainly no such entity considering such cumulative impacts within the Delaware River Watershed. Looking only piecemeal at the proposed projects and failing to consider the cumulative impacts of multiple projects occurring simultaneously within the basin will not only impede properly informed and protective decision-making by the Commission, but will also result in unnecessary exposure of the resources of the Delaware River Basin to considerable environmental harm.

Furthermore, USGS flow data base demonstrates the water withdrawal schedule for hydrostatic testing conflicts with the assertions made in the application itself. Section D of the draft docket indicates that the docket holder is planning to perform hydrostatic water withdrawals between August and September of 2013 and further explains that whenever the streamflow at the Honesdale USGS gauge is less than 72.25 cfs no withdrawal shall be made. However, median daily statistics from the Honesdale USGS gauge indicate that during the months of August and September the cfs rate will fall below the median stated in the docket application for most if not all the water withdrawal window. Therefore, it is impossible for the project sponsor to withdraw any water during this time period. Additionally, passby flows and water withdrawal restrictions are not protective of the surface water quality or water rate ecosystems. Section C of the draft docket indicates that water withdrawals from the Delaware River and Lackawaxen River are based on the Commission's current passby flow policy. The passby flow does not adequately protect the streams and waterways and can be expected to cause direct harm to habitats and water quality of these waterways. Specifically DRN opposes and objects to the use of the formula-based Q^{7-10} to compute the passby flow in the stream where the water withdrawal project is proposed.

Furthermore, special care needs to be paid to the waterways that are being drawn from and the streams and groundwater where the water will be discharged because of their vulnerable and special values. Currently pending before PADEP is a re-designation petition suggested by the DRN, which includes a request for re-designation of the Lackawaxen River to an exceptional value waterway. The Commission should wait until the petition has been brought before the PADEP board before making any withdrawals from that waterway.

Furthermore, in Findings Section B – Final Site Construction Plans and Operation Plans – and Decision Section C it is stated that the final construction plan and operation plan are not yet approved. The Executive Director is empowered to approve these plans after docket approval. It is not acceptable and removes these important plans from the public comment process. All required plans should be made available to the public for review and comment prior to approval by the Commission. This applies similarly to the invasive species control plan, which is subject to similar conditions.

Furthermore, the Commission should require restoration to natural vegetation that employs native species in a professionally landscaped manner under the direction of a certified landscape architect or botanist. Seeding is not sufficient mitigation or a protective measure. It does not restore natural functions to disturbed areas. The Commission is required to achieve no-measurable change in the quality of the Special Protection Waters and to do so through vegetation and natural conditions should be required in this docket.

Lastly, members of the public oppose the proposed docket, call for its denial and request the Commission to exercise its authority and jurisdiction regarding the pipeline project. At least 12 letters have been submitted to the DRBC by elected representatives in Pennsylvania and New Jersey and more are expected in the coming weeks to support this position. There is no rush to approve this docket. The water withdrawal is not scheduled to happen for nearly a year. There are numerous permits outstanding and it is DRN's position that this was a broad docket that should be denied. Thank you.

Tracy Carluccio: Delaware Riverkeeper Network has a problem here with the public process. Ten days to two weeks before a meeting a project like this is notified by being placed on the agenda for this meeting here today. So the public really has not had the opportunity – the people who live in the

area where the Tennessee Gas Pipeline crosses in Pennsylvania and New Jersey have not had the opportunity – to even find out about this hearing here today. As a result of that the public is really deprived from participating in this decision here. The lack of public input then leads the Commission to a decision which does not benefit from receiving the intelligence of the community and receiving the information about the site-specific impacts that this pipeline will have.

We have heard from Aaron Stemplewicz, our attorney at DRN, why this project should not move ahead right now. It is not ripe, it is not ready. There are many outstanding permits and the Tennessee Gas Pipeline Company has not demonstrated that it can follow regulations, and as a matter of fact, has demonstrated that it is flagrantly violating regulations through its construction of the 300 Line and we fully expect that not to change. There is no reason to expect that to change since those violations and that activity which violates all the erosion and sedimentation controls that have been mandated continue right up until the very recent time. Certainly the 300 Line should be totally put to bed before any further action should be approved by the Commission to allow the next leg of the project – the Northeast Upgrade Project – to move ahead. To allow them to continue to have a project that is not in compliance and to move ahead and give them more is just not responsible on the part of this Commission. We are very concerned about the projects that are coming down the line and that are in the ground right now related to pipelines and the infrastructure and compressor stations associated with pipelines. Nobody is looking at this big issue. No one is looking at the cumulative impacts of pipeline projects across the nation, across the states, but particularly here in the Delaware River Watershed. Nobody – and it is the Commission's job – nobody is looking at the cumulative impacts of what all of the land disturbance and water withdrawals and discharges of pipelines and the construction of their associated infrastructure is having on the water resources of the watershed. Without the Commission taking that on, then who is going to make sure that there is no-measurable change to the existing exceptional water quality of the Special Protection Waters? It will fall away. We cannot tolerate that. We as a public and we as the Commission sitting here today have gone to extreme lengths to make sure over decades that the Delaware be brought back from oblivion and be continued to be improved upon. How are we going to maintain that exceptional water quality, restore the areas that need restoration, make sure that we continue to provide a high quality wild and scenic river and water to 15 million people, amidst these pipeline projects and their associated infrastructure, if the DRBC does not step in and regulate. We are asking the Commission to step forward and look at the impacts of pipelines. It's required under your mandate under Special Protection Waters to look at the ground cover changes and water withdrawal and discharges associated with this. We are asking you to set aside this docket here today, not allow this bite of the apple to happen, but to set it aside while you look at the cumulative impacts like you have done with other projects such as gas drilling in the past.

We believe at this time the Commission should deny this based on public input: the 12 legislators who have submitted letters and the organizational letter that was submitted to the Commission signed on by 32 organizations representing tens of thousands of members, DRN's letters that we have submitted as an organization representing our ten thousand members, and individual letters submitted by the public here today and through our website and other means have all spoken to the Commission to say deny this project here today. Instead, take jurisdiction. Take on the responsibility of looking at the cumulative impacts and the comprehensive environmental impacts of these pipelines in the basin before you start giving away pieces of the watershed to these pipeline companies. We know this is a bad actor. Why would we let them in the door? But even if they were a good actor the Commission does not know what the cumulative impact of all of these projects is going to be, so therefore the death of a thousand cuts is the result if you allow

this one to start and then the next one. So let's draw the line in the sand here today and let's say that pipelines are going to be recognized by the Commission as they are required to be under your Rules of Practice and Procedure, you are going to set aside any affirmative action on the pipeline today, and you will instead take a look at the cumulative impacts of pipelines in the watershed before moving ahead on any of them.

Kerry Butch: The League of Women Voters of New Jersey, Delaware, Pennsylvania and New York has gotten together to make a statement about this particular Tennessee Pipeline project. I've asked Betty, since she's our grassroots person, to read our statement, but it was co-written by Carol Jones, the President of the LWV of Delaware, Toni Zimmer, the President of the LWV of New Jersey, Sally Robinson, the President of the LWV of NY, and Olivia Thorne, the President of the LWV of PA. We represent tens of thousands of members and hundreds of local grassroots leagues and it's not often that state leagues get together like this. I just want to underscore that it's an extremely important project and we wanted to come and make a statement. At this point I would like to defer to my colleague, Elizabeth Tatham.

Elizabeth Tatham: "Special protection" says it all. The Delaware River Basin deserves it. You have the authority to provide it. The Leagues of Women Voters of Pennsylvania, New Jersey, New York and Delaware continue to be alarmed by the threat of natural gas development and transmission in our highly valued watershed. We therefore request that the Delaware River Basin Commission not act at this time on the application presented by the Tennessee Gas Pipeline and Northeast Upgrade Project. A pause is needed to provide the time to safeguard our valued resource that you are obliged to protect. We encourage you to obtain adequate data to determine the individual and cumulative impact of both proposed water withdrawal and pipeline construction relative to this project. It is essential that the DRBC provide a watershed-based level of analysis and oversight before precedent is set by any decision-making regarding this treasured resource area.

As you may know based on our national position, the League of Women Voters believes natural resources should be managed as interrelated partners of life-supporting ecosystems. Resources should be conserved and protected to assure their future availability. Pollution of these resources should be controlled in order to preserve the physical, chemical and biological integrity of ecosystems and to protect public health. As a part of our national policy on resource management we believe resource management decisions must be based on the thorough assessment of population growth and current and future needs. The unerring characteristics and carrying capacity of each area's natural resources must be considered in the planning process. Policymakers must take into account the ramifications of their decisions. Further, the League supports comprehensive long-range planning and has adopted a national position based on study and consensus. At the least, wise decision-making requires adequate data and a framework within which alternatives may be weighed and an intelligent decision made. Consideration of environmental, public health, social and economic impacts are necessary for proposed plans and action. Special consideration for the protection of areas of critical environmental concern, natural hazards, historical importance and aesthetic value need special attention to maintain the environment and environmental quality of urban communities.

The League of Women Voters of the Delaware, New Jersey, New York and Pennsylvania recognizes the awesome responsibility you have in protecting our life-sustaining Delaware River Basin. We urge that you review the proposed pipeline project under the DRBC Rules of Practice and Procedure, Article 3, Section 2.3.5 that grants DRBC authority to regulate the pipeline construction and activity "that passes in, on, under or across recreation project areas that have been designated in the Comprehensive Plan, or incurs significant disturbance of ground cover

affecting water resources within the Delaware River Basin.” Given the increasing infrastructure expansion and development in this area, time and funding for data gathering, scientific review, critical thinking and evaluation of all alternatives are needed to avoid harm and minimize potential risks. Precedent setting comprehensive standards must be established that promote an environment beneficial to life.

We appreciate the gravity of the task before you and your consideration of our position as you provide essential special protection to the Delaware River Basin. Thank you.

Eileen Ahearn: My name is Eileen Ahearn and I’m a private citizen from Lackawaxen Township, Pike County, Northeast Pennsylvania, which is part of the Delaware River Basin and also the Lackawaxen River Watershed. I wish to speak to the importance of our most precious resource – water. You have shown for your deliberations here how much importance you have placed on this resource. The quest for energy in any form cannot supersede the protections that must be put into place and honored to keep our water viable. Also the amount of diesel fuel required to truck-in 1.6 million gallons of water – evaporating into our – air ends up in our water. It is deleterious to our communities and this test is only the beginning of the degradation of our environment, which is specifically prohibited by Section 27 of the Commonwealth of Pennsylvania’s Constitution under Natural Resources and the Public Estate, which states, “The people have a right to clean air, pure water and to the preservation of natural scenic, historic, and aesthetic values of the environment.” Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources the Commonwealth shall conserve and maintain them for the benefit of all people. Those of you that have been given the responsibility to protect the American people must do so and vote ‘no’ on this inexorable march to our water’s destruction. Once fracked it can never be unfracked. There is no technology, no mechanism to clean up a site once it is fouled. Protect us please, and vote “no” on this docket.

Pam Lewis: I am Pam Lewis from Watchung, New Jersey and I’ve been following Tennessee Gas Pipeline since they had their first meeting in Montague. I always thought we would have more reasonable solutions here than to allow pipelines to go through our state forests and hence destroy our public good. I listened to people at that meeting talk about the land that was left in people’s wills for the public good and that they never would have wanted a pipeline to come through. But it is there already and that what they’ve done in Waywayanda has been horrific. There’s been hydraulic fluid leaking into the watershed there. They took down 56,000 trees and I just spoke with somebody who saw it a few days ago and he said that it still looks so bad. I came here really for a question. Besides that, I wanted to ask you to please vote no. These 5 million gallons of water – this is our water. I’d like to know are they paying for that water that they want to take from the Delaware River? How are they getting this water? Is it free like the 56,000 trees that they cut down that they were able to sell to whomever they sold to and the State of New Jersey didn’t make any revenue from that at all? Who pays or is it just a free drink of 5 million gallons of water? Who answers these questions?

Mr. Muszynski: You only pay for surface water removal if you’re below the Montague gage. [Mr. Muszynski consulting his staff in a sidebar. Mr. Muszynski mis-spoke and stated that one of the two withdrawal sites for NEUP would be located below Montague and would thus be subject to water charges. Actually, neither withdrawal would be located below Montague.]

Ms. Lewis: Which one would be paid for?

Mr. Muszynski: The one in Delaware. [A mis-statement, as both withdrawals would be located above the Montague gage and thus not subject to water charges.]

Ms. Lewis: There's two, right? The Lackawaxen and the Delaware River? So how many millions of gallons are you taking out of there?

Mr. Muszynski: About three – three and a half [million gallons].

Ms. Lewis: What would be paid for that?

Mr. Muszynski: The rate is \$80.00 per 1,000 gallons. [Mr. Muszynski mis-spoke. The rate is actually \$80 per million gallons for water used consumptively (not returned to surface or ground water) and \$0.80 per million gallons for non-consumptive use. Neither rate would apply to the TGP NEUP withdrawals, because both withdrawal points are located above the Montague gage.]

Ms. Lewis: Okay, eighty dollars per a thousand gallons. Boy it seems like we all pay like a dollar or \$2.00 or \$3.00 dollars for a little 10-ounce. I don't know, it seems like they're getting a really good deal for our water.

Mr. Muszynski: There I don't argue with you. Next time we go for a rate increase...[I hope you will support it]; it's not meant to be a joke.

Ms. Bush: [Addressing Ms. Lewis, who apparently believed Mr. Muszynski represented the project sponsor.] Bill doesn't represent the pipeline; he's with the agency.

Ms. Lewis: Okay, you're with the DRBC. I just came here a little late, so I'm sorry. It is eighty dollars for a thousand gallons. Okay. So I feel better that they're paying something but I still believe that this water is not for sale. This is our drinking water. Let them get water from somewhere else. Let them pay up the kazoo for water because 85% of this water is not coming back to us. It's destroyed through the drilling mud and the bits and whatever other toxins are in there. I really think we should say "no". Let them buy – if they want to do this, let them get their own water. My friend told me the other day she was driving by the Delaware River and it looked pretty low. Are we in a drought? Are we in any kind of drought alert – green light, red light, blue light? What are we in right now with the state of the water? Are we low, or high or medium?

[Mr. Tittel interrupted, requesting to speak before he left for a 3:00 p.m. conference call. Ms. Lewis and Chairwoman Heffner granted Mr. Tittel's request and agreed to return to Ms. Lewis' comments afterward.]

Jeff Tittel. I am the Director of New Jersey's Sierra Club. The point that I really want to make is what's happening with this pipeline and where it goes through Lake Lookout, Bearfort Waters and the different ridges. Where Section 300 has already been built or been under construction there have been major problems with saltation, with chemical spills, with not being able to follow simple guidelines. Lake Lookout last summer became a giant mud puddle. The Bearfort Waters, in fact there's a bear up there that weighs over 650 pounds and it came out of the Bear Fork waters and somebody thought it was a grizzly bear because it was brown. We don't have brown bears in New Jersey. The concern that we have is that the same thing will happen here in the Delaware River where you're going to be putting a pipeline through steep slope areas and then drilling under a river. You are not going to be able to control erosion. You are not going to be able to control that runoff. You have a pipeline company with a history of violations and therefore it is

imperative for the Delaware River Basin Commission to do their job and take control of this project and oversee the construction. You should vote “no” now so that you can move forward under your rules to oversee this pipeline. This is not going to be the last pipeline coming. As we know because of the development of natural gas deals that are happening in the mid-West and Appalachia, there will be other pipelines. We know the Millennium Pipeline, we know Transco, and we know this pipeline. There will be many more. You have to look at the secondary cumulative impacts from these pipelines and what it’s going to mean to water quality in the river. What it’s going to mean to scenic vistas. What it’s going to mean to viewsheds, what it’s going to mean to contiguous forests. Because quite frankly my concern is, given the power lines and the gas lines and the other one-year projects, your basin is going to look like just lines cutting right through it and it will be all opened up for invasive species and their invasive species plan which I read is *de minimis* at most, that there’s no ongoing checking with it, that deer will come in and eat whatever gets planted and invasive species will come back. Our real concern here is that you really need to look at the total secondary cumulative impacts because you will end up having silt in your rivers, you’ll end up having chemicals on your ground running into your groundwater, running into your rivers unless you take control of this project to make sure that they follow the rules, follow the standards and end up protecting water quality in this basin. Given the plan that’s in front of you, that will not happen. So please do your jobs and say no today and take control of this project and those other projects that are coming down the pipeline soon. Thank you.

Ms. Heffner: [To Mr. Muszynski] Bill, if you wouldn’t mind answering two of Ms. Lewis’ questions, just so we are clear with folks here with what’s actually being permitted. Just so folks understand that this isn’t drilling mud.

Mr. Muszynski: That’s part of it. Eighty-five percent of the water [is used for hydrostatic pressure testing of the pipeline and] doesn’t go into the drilling mud. Only 0.6 million gallons is going to be used for [make-up water for the bentonite mud used in] the hydraulic undercrossing, where they go basically under the river – directional [horizontal] drilling.

Ms. Lewis: Yes, because you’re going to put a pipeline under there, right?

Mr. Muszynski: Yes, under the river. But only 0.6 million gallons goes into that process. The other 5.3 – 5.4 million gallons is used to [hydrostatically] pressure test the pipeline itself. That water will come back and be returned to the land so that’s not a hydro-fracking operation. I think some of the comments that have been raised here seem to think that there might be hydro-fracking – hydraulic fracturing – involved with this [project] – and it is not.

Ms. Lewis: So the bulk – 0.6 of the 5 million gallons is then going to the storage facility and then correctly treated, right? Is that going to a New Jersey treatment center? Do you know where the plant is?

Mr. Muszynski: I don’t know where it’s going, but it has to go to a licensed facility. I don’t have names here.

Ms. Lewis: Who does give them direction on where it’s going to go, or do they just go wherever they want?

Mr. Muszynski: The facilities are licensed by the states.

Ms. Lewis: Okay, because right now we have a ban that's been voted by the legislature to ban fracking wastewater. We are just waiting for the governor to sign it.

Mr. Muszynski: This is not fracking waste.

Ms. Lewis: Okay, but there are chemicals in there that have to be treated properly then, right?

Mr. Muszynski: They're not the same.

Ms. Lewis: I stand corrected. It's not really fracking stuff; it is just contaminated. So then what is in the hydrostatic water that they want to put back into three surface areas of New Jersey? What is in there after it's gone through the pipelines?

Mr. Muszynski: There are permitting requirements [imposed by state and federally agencies and the DRBC]. In Pennsylvania there really can't be any contaminants in that water. All they are doing is taking water and putting it into the pipe, pressurizing that pipe with the water in it and taking it out of the pipe. The only thing that we potentially could add is the [additives to protect against] invasive species. If we require them, they are required and that might be chlorine.

Ms. Lewis: Okay, so there could be chlorine in the water. Is somebody going to test that water for sure and make sure what exactly is in there before it would be put in our surface water?

Mr. Muszynski: The docket and the state requirements require testing of the water before it's disposed.

Ms. Lewis: It didn't say what was going to be in that water but certainly if it's going through pipes and it's changing the caliber of what it is I would not want to think that the State of New Jersey is going to jeopardize our water in any way for a pipeline.

Mr. Muszynski: I agree with you and I don't think they would do that either.

Ms. Lewis: Okay, so there will be testing. Mr. Tittel just said that the degradation that was done at the park up there and Lake Lookover was pretty horrific. I have pictures, I've seen it myself through the pictures and I've listened to testimony about how Tennessee Gas Pipeline Company said "Well, it was Hurricane Irene, was this very unusual hundred year occurrence that doesn't happen." Well, what if this is the new normal? Yesterday John Mark of NOAA said that they did testing all over the world and they've come up with the conclusion that man is creating more and more of these storms through the intensity of the greenhouse gases. Methane is a big – 23 times warmer – gas than the coal and the oil that we are currently using. This pipeline is going to carry a more intensive, way more intensive, greenhouse gas commodity, supposedly for our own good, supposedly for economics, but if we're going to have more storms and more droughts and farmers can't grow their crops and feed us all because we keep on putting this warming greenhouse gases into our atmosphere, then it's going to be a sad life for all of us and we're not going to really need a lot of energy anymore because we're all going to be sick, and trying to keep the heat away from our bodies because we're all going to feel like wilting. So look into this NOAA. It just came out yesterday and authorities have said this is a manmade situation that is causing more and more of the droughts and the storms and the floods. So I hope that whatever you do, that you do it with the best integrity and the best oversight like Mr. Tittel said, because if this is a done deal then I'm just talking out into space. But I hope that you will monitor and hold them to the highest, strictest standards, because nobody did that up at Waywayanda. Nobody – just go up there and look yourself. You'll want to cry if you care about our resources. These

resources were not put here by President Kennedy just so we can care about economics. They were put there to preserve for our quality of life. I think that's the really major issue here is quality of life. Is it going to be enhanced by this project or not? I hope you vote "no".

Winifred Olsen: Yes, my name is Winifred Olsen and I'm here to represent the Lackawaxen River Conservancy (LRC). Thank you very much for this opportunity to address the Commissioners. The LRC is a volunteer grassroots organization established in 2001 for the protection of the Lackawaxen River, its watershed and its way of life. We support the Pike County Commissioners' letter of June 19, 2012 addressed to Ms. Collier with respect to this docket. I would also like to associate ourselves with the presentations today of the Delaware Riverkeeper Network. I will say there are only three of us down here today and it was because we didn't really know about this hearing until Monday.

As stated in the Pike County Commissioners' letter, the Delaware River Basin Commission has authority to regulate pipeline construction activities that involve "a significant disturbance of ground cover affecting water resources," which has been quoted many times today. The recent expansion of the TGP pipeline across the Lackawaxen River in Lackawaxen Township is a fine example of the significant disturbance of ground cover affecting water resources. Although it's been nearly a year since the TGP has removed all vegetation from the riverbanks and surrounding areas and completed its expedient but destructive crossing of the river, it is yet to re-vegetate the area and restore the riverbed to its original condition or to the condition that it said it would. By the riverbank it is severely compromised. It's a horrible scar on the land. The temporary bridge across the river has not yet been completely removed and there is increased sedimentation along the crossing. TGP has chosen not to comply with the environmental regulations imposed on it by DEP, by FERC or any other agency. We have no confidence that they will do so in the future. Beyond the degradation of the land and the riverbed, the LRC is especially concerned about the cumulative impacts of withdrawals of water from the Lackawaxen River. In 2010, the year that the Lackawaxen River was named "Pennsylvania River of the Year," DRBC gave Stone Energy Corporation permission to withdraw more than 20 million gallons of water per month from the very tiny West Branch of the Lackawaxen. Now TGP is requesting permission to withdraw over a million gallons from the main branch of the river at White Mills. We respectfully request the Commission to deny this application, especially since the Commission has not yet finalized its regulations which are to apply to all natural gas development projects. Thank you.

Jim Kelly: I am Jim Kelly from Rowland, Pennsylvania. I apologize for my unpreparedness. I just found out about this meeting last night from Ms. Olsen. I live along the river. I don't know much about anything except that I live there and I see that they came in last summer and knocked down all the trees. They never replanted them. I used to fish there all the time, right by the pipeline until the gas company showed up. The fish all have mud in their gills so the water is all muddy. They kept driving back and forth across the river and when she said bridge, it's an underwater bridge that blocks the flow of water and fills in a really good fishing hole. I know that's only important if you live up there and you fish but we really don't have any extra water. It's kind of down already. Maybe they can get it from Lake Wallenpaupack or maybe they can do like people in Dimock do and drive to Wal-Mart and buy it. I don't know much about this but it's just my opinion. Thank you.

Mary Ellen Noble: They're not going to do this until next year. You have a chance, at least, if you can't bring yourself to deny the application today, you can put it forward and take some time to look at what I think is a real need for DRBC authority over these kinds of operations. It's the cost of doing business for people like TGP. They can submit plans for how they're going to treat the

land and they can ignore the hell out of them and pay whatever fines that somebody manages to put on them and that's the cheapest thing they can do. They are not being properly regulated. They're not being decent actors and I ask you to really think about whether you want that to keep going on.

Ms. Heffner: Just to make sure we didn't miss anyone from the public – any comments on that last set of dockets including Tennessee?

Ms. Lewis: I just remembered I didn't get the answer to my original question before Mr. Tittel wanted to go, which was what is the state of water right now? Are we in a drought? Are we in a drought alert, a drought warning? Where are we at?

Mr. Muszynski: No, we're not in a drought; we're not in a drought warning. Let me emphasize that the amount of water that we are talking about, allowing it [the project sponsor] to pull out [withdraw], comes out to one cubic feet per second. It may sound like a lot but it's not relative to the flow in these areas. They do have restrictions on when they can take those waters out. [As to] an earlier comment that [the company proposed to withdraw water at times when the historical streamflow records for the Lackawaxen River show there are likely to be flow rates lower than the docket's pass-by requirement], I don't know if you got here for my presentation, but there is a [minimum pass-by flow] number as to when they [the project sponsor] can't take the water out. We don't [the docket would not] restrict them to [withdrawing water during] any specific period of time. I think that's probably a misreading of that particular clause. That [window of time] was when they [the project sponsor] indicated they might want to take water out, but they're still restricted [by the pass-by condition]. If the streamflow isn't a certain amount, then they can't withdraw. We [Commission staff] always encourage the facility that has the ability like this, in case they would, to take it when the streamflows are higher [rather] than lower.

There were some other comments about this being a recreation area. This is not a recreation area as approved by the Commission in the Comprehensive Plan. I'm not saying the area is not used for recreation purposes, but it is not one of the approved recreation areas [i.e., areas designated in the Commission's comprehensive plan]. We have looked at all of the variety of materials that came with application package – and we did public notice the application that we received in December 2011 or January 2012 – in looking through the materials that were provided, now that there are these various applications, there are probably about 25 to 30 different permits from the state and federal agencies that are required. Some of those permits have been obtained. Some of those approvals are in the process of being obtained. So, yes, this is part of a multi-permitting process that's out there. The main thing is, when we looked it, what we are looking at in this particular pipeline is consistent with how we look at other pipelines. We're looking specifically at the water and the discharge portions of that pipeline and where they're taking it across. It did not go through the national park. We automatically excluded [ruled out] that provision [of the RPP] from us having [from requiring DRBC to take] jurisdiction over the pipeline. If it had been a different routing [that had gone through the national park up in that area] our review would not be looking only at what we're doing [i.e., at the aspect of the project that triggered review – in this case, water withdrawals and discharges], but at all the other pieces. [Under the circumstances, DRBC reviewed other elements of the project to ensure they were being addressed by other agencies. Accordingly, we] looked at the National Fish & Wildlife [Service] comments, and changes that were made to the routing on that [in response to U.S. F&WS's concerns] and their approvals [and conditions] under the Endangered Species Act. It [our review] is [for] different requirements than what they granted [i.e., than theirs] or the states'. As far as past permits and whether they are being complied with, [the permit issuer] – whether it is the

conservation district, the counties, the states or the federal government – [has primary responsibility]. They are the ones who issue the permits. They need to enforce those permits.

Ms. Lewis: But shouldn't we look at that? Starting with what they have done so far?

Mr. Muszynski: We certainly have looked at – as to what their requirements are – whether or not we feel comfortable. That's where we are now, making a recommendation for approval.