

DELAWARE RIVER BASIN COMMISSION

MEETING OF SEPTEMBER 26, 2007

Minutes

The Commission met at the office of the Delaware River Basin Commission in West Trenton, New Jersey.

Commissioners present: Cathy Curran Myers, Chair, Pennsylvania
Michele Mateo Putnam, Vice Chair, New Jersey
Joseph A. Miri, New Jersey
Mark Klotz, Second Vice Chair, New York
Kevin C. Donnelly, Delaware
Harry W. Otto, Delaware
Brigadier General Todd T. Semonite, United States

DRBC Staff participants: Carol R. Collier, Executive Director
Robert Tudor, Deputy Executive Director
Kenneth J. Warren, DRBC General Counsel, Wolf, Block, Schorr &
Solis-Cohen LLP
Pamela M. Bush, Commission Secretary & Assistant General Counsel
Thomas J. Fikslin, Modeling, Monitoring & Assessment Branch Head
Richard C. Gore, Chief Administrative Officer
William J. Muszynski, Water Resources Management Branch Head
Kenneth F. Najjar, Planning and Information Technology Branch Head
Hernan A. M. Quinodoz, Water Resources Engineer

Chairwoman Myers convened the business meeting at 1:30 p.m.

Minutes. Ms. Myers asked for a motion to approve the Minutes of the Commission's meeting of July 18, 2007. Mr. Klotz so moved, Mr. Donnelly seconded his motion, and the Minutes of the July 18, 2007 Commission Meeting were approved by unanimous vote.

Announcements. Ms. Bush announced the following meetings and events:

- *DRBC Flood Advisory Committee.* Wednesday, November 7, 2007 at 10:00 a.m. Commission's office building at 25 State Police Drive, West Trenton, New Jersey. Staff contact: Laura Tessieri, (609) 883-9500, ext. 304.
- *Joint Meeting of DRBC Monitoring Advisory Committee and Water Quality Advisory Committee.* Wednesday, November 14, 2007 at 9:30 a.m. Commission's office building at 25 State Police Drive, West Trenton, New Jersey. Staff contact: Ed Santoro, (609) 883-9500, ext. 268.

- Annual Pennsylvania American Water Resource Association Conference. October 12, 2007 from 8:00 a.m. – 3:30 p.m. Wildwood Conference Center, Harrisburg Area Community College, Harrisburg, PA. Conference theme is “*Water Quality Management and Regulation in Pennsylvania.*” Additional information, including an agenda and registration form can be found on DRBC’s website.
- Pennsylvania Stormwater Management Symposium. Wednesday, October 17 and Thursday, October 18, 2007 at Villanova University, Villanova, PA. Theme is “*Stormwater Management Implementation: Moving Towards Sustainability.*” On Tuesday, October 16, 2007 a non-engineering workshop entitled “*Transforming Stormwater Management: Converting Runoff Problems to Community Resources*” will take place for municipal representatives. Additional details, including an agenda and registration information can be found on DRBC’s website.
- Third Annual Conference of the New Jersey Association of Floodplain Managers. Thursday, October 18 and Friday, October 19, 2007. Doubletree Hotel and Executive Meeting Center, Somerset, NJ. Theme is “*Flood Mitigation in New Jersey: Building Successful Partnerships from High Point to Cape May Point.*” Additional details, including an agenda and registration form, can be found on DRBC’s website.
- Annual Workshop of the Schuylkill Action Network (SAN). Tuesday, October 30, 2007 from 10:00 a.m. – 3:30 p.m. Montgomery County Community College West Campus in Pottstown, PA. Theme is “*What’s Working to Engage Local Governments?*” Additional details on SAN and workshop registration can be found on DRBC’s website.
- Fall Conference of the Water Resource Association of the Delaware River Basin. Thursday, November 8, 2007 from 8:30 a.m. to 4:00 p.m. Rutgers EcoComplex in Bordentown, NJ. Theme is “*Flood Mitigation and Special Protection Waters: Priorities Within the Delaware River Basin.*” Fee of \$25 per person. Additional information, including an agenda and registration form, can be found on DRBC’s website.
- Fifth Annual Volunteer Monitoring Summit of the New Jersey Department of Environmental Protection and the Watershed Watch Network Advisory Council. November 29-30, 2007 at the Camden County Boathouse, Pennsauken, NJ. Theme is “*Linking Government and the Public to Better Protect New Jersey’s Water Resources.*” Additional details can be found on DRBC’s website.
- Four technical assistance meetings are scheduled for developing a multi-jurisdictional flood mitigation plan for the non-tidal New Jersey portion of the Delaware River Basin. The agenda for each meeting will include an overview of the mitigation actions submitted by each municipality; information sharing and discussion in order to finalize the list of mitigation actions; and a presentation of the findings from the HAZUS vulnerability assessment. The four meetings are:
 - Tuesday, October 2, 2007, 10:00 a.m. for Mercer County
 - Tuesday, October 2, 2007 at 7:00 p.m. for Hunterdon County
 - Wednesday, October 17, 2007 at 1:00 p.m. for Sussex County
 - Wednesday, October 17, 2007 at 7:00 p.m. for Warren County

Additional details and exact meeting locations can be viewed on DRBC's website.

Hydrologic Conditions. Dr. Hernan Quinodoz reported on hydrologic conditions in the Basin.

The observed precipitation for the Delaware River Basin above Montague, New Jersey for the period of January 1 through September 24, 2007 was 31.60 inches or 0.34 inches below normal. The observed precipitation for the Delaware River Basin above Trenton, New Jersey for the same period was 32.41 inches or 0.67 inches below normal. Also for the same period, the observed precipitation for Wilmington, Delaware was 29.38 inches or 2.96 inches below normal.

The average observed streamflow of the Delaware River at Montague, New Jersey in August 2007 was 2,439 cubic feet per second (cfs) or 114.6 percent of the long-term average for the month. For the same period, the average observed streamflow of the Delaware River at Trenton, New Jersey was 6,350 cfs, or 125.2 percent of the long-term average for the month.

For the period from September 1 through September 24, 2007, the average observed streamflow of the Delaware River at Montague was 1,845 cfs, or 85.2 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 4,008 cfs, or 80.2 percent of the long-term average for the month.

In the Lower Basin, as of September 25, 2007, Beltzville Reservoir contained 13.08 billion gallons (bg) usable, or 100.6 percent of usable storage, and Blue Marsh contained 6.60 bg usable, or 101.5 percent of summer pool usable storage. As of September 24, Merrill Creek contained 15.220 bg usable, or 97.0 percent of usable storage.

In the Upper Basin, as of September 25, 2007, Pepacton Reservoir contained 97.755 bg usable, or 69.78 percent of usable storage. Cannonsville contained 51.289 bg usable, or 53.6 percent of usable storage. Neversink contained 23.529 bg usable, or 67.3 percent of usable storage. Total New York City Delaware Basin reservoir storage was 172.573 bg usable, or 63.7 percent of usable storage.

As of September 23, 2007 the average ground water level in eight reported USGS observation wells in the Pennsylvania portion of the Basin was slightly below the long-term average. Water levels expressed as 30-day moving averages at six of those wells were within their normal range for this time of the year while water levels at the Lebanon County and Schuylkill County wells were below their normal range. The water levels at the Cumberland County, New Jersey coastal plain observation well were within their normal range. When last observed on July 17, the water levels at the New Castle County, Delaware coastal plain observation well were within their normal range.

During the month of August 2007, 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) 75 to RM 78. The normal location of the salt line during August is RM 77, a location which is one mile downstream of the Delaware-Pennsylvania state line. As of September 24, the salt line was located at RM 80, which is one mile upstream of the normal location for September.

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

- *DRBC Staff.*

Maggie L. Allio has joined the staff of the DRBC staff in the Planning and Information Technology Branch. She comes to the Commission from the Montgomery County Conservation District. Maggie graduated *magna cum laude* from Dickenson University and has worked for the Alliance for Aquatic Resource Monitoring. She has a strong background in wetlands and water quality. Her initial assignments with DRBC relate to the Pennsylvania state water plan and the Wissahickon Watershed project.

Paula Schmitt, who normally participates in Commission meetings as the secretary, is recuperating at home following a heart attack. The staff is hopeful Paula will return to work in the near future. Ms. Collier expressed her appreciation to the staff members who have worked together to fill in for Paula during her absence.

- *Key DRBC Activities.*

Staff has focused lately on three major efforts: 1) collaboration with EPA and the Basin States on a plan for implementing an updated, uniform water quality criterion for PCBs in the Delaware Estuary; 2) moving forward with notice and comment rulemaking on amendments to DRBC's Special Protection Waters program (Ms. Collier noted that keeping the clean water clean is of vital importance, especially in the Upper Basin); and 3) advancing the flexible flow management planning effort, which Ms. Collier acknowledged was the reason for the large audience at this meeting.

Speaking in particular to those concerned about the flow management program, Ms. Collier acknowledged the River Master's announcement during the morning conference session that the Decree Parties had reached agreement on reservoir operating program to be advanced through the DRBC. She reiterated that the Commission could take no action without a public process, which would involve multiple public information sessions, a public hearing, and a period for submission of written comments. A comment and response document will be developed prior to Commission action. A schedule for the process was outlined later in the meeting. The target date for completion of the rulemaking is May of 2008.

Ms. Collier reiterated that making public policy can be difficult and messy, but it must be based on sound science and accurate information. She has seen and heard from many concerned organizations comments that are not based on accurate information. In response, DRBC has created a document called "Setting the Record Straight". Following an effort to evaluate the cause or causes of the devastating floods of recent years, the National Weather Service (NWS) has repeatedly explained that excessive rainfall and runoff were the primary causes of the floods. Ms. Collier noted that Mr. Gary Szatkowski of the NWS was present to answer questions or to comment on the subject if asked.

Ms. Collier made the following additional points. First, contrary to the belief of some, New York City has not altered its reservoir operating program during the past four years with respect to achieving or maintaining storage equal to one hundred percent of capacity. Nor does the DRBC require reservoirs to be filled to or above their capacity. Rather, a goal of the City's operations historically has been to have full reservoirs at the beginning of the water

year, which is June 1st. Addressing another misconception, Ms. Collier explained that DRBC does not charge New York City for the City's diversions or water use and does not profit in any way from the sale of water stored in the City's reservoirs. DRBC is an interstate, federal watershed management agency. It is not a water company and does not sell or process water. DRBC has a water supply charging program, which enables the Commission to pay the U.S. Army Corps of Engineers annual sums equal to the Commission's share of capital and operating expenses for its storage in the Corps' Blue Marsh and Beltzville reservoirs. The reservoirs are located on the Lehigh and Schuylkill rivers, respectively, in Pennsylvania. The Commission's storage in these reservoirs is for the express purpose of making water available for release to maintain river flows during times of drought. The charging program applies only to water users who benefit from the availability of such flow maintenance releases. The charges have nothing to do with how much water is stored in the City's reservoirs.

Currently, at the request of the Governors of the four basin states, DRBC is examining reservoir operations throughout the Basin to evaluate flood storage options. The Governors provided money to DRBC for development of a model that can be used to show how reservoirs throughout the basin might function under different void programs during storm events such as those that resulted in the recent main stem floods. The model will allow the Commission to test different scenarios and will provide a scientific basis for identifying operational alternatives in the future and determining which approaches may be best for the overall system.

Ms. Collier asked Ken Warren, DRBC's General Counsel, to explain the Commission's legal authority and how the agency works with the Decree Parties in connection with New York City reservoir operations.

General Counsel's Report. Mr. Warren began by announcing that he is recusing himself from any participation in hearing item number 8, concerning a proposed rerate of the Upper Gwynedd Township wastewater treatment plant. He then offered the following remarks concerning the Supreme Court Decree, the Decree Parties, and the Commission:

- In 1954 the United States Supreme Court issued a decree in the case of *New Jersey v. New York*. That case involved competing claims by the State of New Jersey, New York State, New York City, the Commonwealth of Pennsylvania, and the State of Delaware to the waters of the Delaware River. The Decree established the right of New York City to divert 800 million gallons per day (mgd) from the three Delaware River Basin reservoirs that New York City has to date built for water supply purposes.
- The 1954 Decree also established the right of the lower Basin states to compensating releases from New York City's Delaware River Basin reservoirs. The compensating releases must be sufficient to maintain a minimum flow of 1750 cubic feet per second (cfs) at the USGS gauging station in Montague, New Jersey. The New York City Delaware River Basin reservoirs thus serve as an important source of water supply and fresh water flows for the lower Basin states as well as for New York City.

- The 1954 Decree also required New York City to release an excess release quantity (ERQ) of up to 70 billion gallons (bg) during the seasonal period June 15 – March 15. The amount of the ERQ is determined each year based on New York City’s estimate of the amount by which its available water from all sources in its entire system will exceed its estimated consumption for that year. (The ERQ is the lesser of (1) 70 bg or (2) 83% of the amount by which New York City’s continuous safe yield during the year from all its sources obtainable without pumping exceeds its estimated consumption.)
- New York City has no obligation under the 1954 Decree to release any water beyond that required by Point 2 above (the Montague flow target) and Point 3 (the ERQ). The 1954 Decree makes no provisions for spill mitigation releases or for conservation or ecological releases.
- The 1961 Compact established the Commission to manage water resources in the Basin. The members of the Commission are the four Basin states and the federal government. There are two differences between the membership of the Commission and the membership of the Decree Parties: New York City is only a Decree Party member; the federal government is only a Commission member.
- The Compact gives the Commission the power to allocate the waters of the Basin subject to an important limitation. The Compact prohibits the Commission from adversely affecting the releases or diversions provided in the 1954 Decree without the unanimous consent of the Decree Parties. The Commission provides a forum through which the Decree Parties may work cooperatively to develop an effective spill mitigation program and a conservation releases program.
- The Commission is an administrative agency that takes regulatory actions only after giving public notice and receiving public comment. The Commission’s reservoir operations regulations are contained in its Water Code which was adopted after notice and comment rulemaking. The Commission also maintains a Comprehensive Plan for the development and use of the water resources of the Basin. The Commission’s regulations and approved projects are included in the Comprehensive Plan. The Commission also issues dockets for projects that have a substantial effect on the water resources of the Basin after a public hearing to determine that the projects do not conflict with the Comprehensive Plan. Thus the Commission’s requirements are set forth in a combination of regulations, the Comprehensive Plan, and dockets.
- In 1983 the Decree Parties negotiated the Good Faith Agreement that, among other things, limited releases from the New York City reservoirs during drought warning and drought emergency according to the amount of stored water. The Decree Parties also approved a limited reservoir releases program to help maintain the fisheries. Rather than proceeding solely by seeking Supreme Court approval of their agreement, the Decree Parties asked the Commission to undertake a public process to incorporate the Decree Party agreement into its regulations, dockets and Comprehensive Plan. After notice and public hearing, the Commission approved these changes with the unanimous consent of the Decree Parties in Docket D-77-20-CP (Revised), also known as Revision 1 (or “Rev. 1”), and incorporated in the reservoir operations plan in the Commission’s Water Code and Comprehensive Plan.

- The 1983 docket (Rev. 1) was the only docket that modified the release schedules from the New York City reservoirs on a permanent basis. All subsequent releases programs were adopted on a temporary basis. The current operations that include some spill mitigation and conservation releases are conducted under Revs. 7 and 9 which expire at the end of this month.
- If no action is taken by the Commission before expiration of Rev. 7 and Rev. 9, the 1983 agreement (Rev. 1) will go into effect.
- In light of the agreement of the Decree Parties announced this morning, if and when the Decree Parties adopt or make public the FFMP or some other proposed program, the Commission will publish proposed regulations to implement the program and conduct full notice and comment rulemaking. All members of the public will have the opportunity to submit comments during the rulemaking process.
- New York City and New York State, in coordination with the River Master appointed under the Decree, implement the reservoir releases program. It is possible that during the period that the DRBC has noticed a program for rulemaking and is soliciting comments, New York may implement the program under consideration on a temporary basis. If the Commission believes that the proposed program promotes better use of water resources than does Rev. 1, the Commission may exercise its discretion to take no action to prevent interim implementation while regulatory changes are under consideration.
- Based on the results of public comment during the rulemaking process, the Commission may modify its proposed regulations and request that the Decree Parties consent to adoption of the final regulations. The Commission hopes to work cooperatively with all Decree Parties to adopt a program that meets the competing demands on the Basin's finite water resources.

In closing, Mr. Warren encouraged all interested members of the public to participate fully in the administrative process in order to help obtain the result that best balances the competing demands on water resources.

Chairwoman Myers thanked Mr. Warren for clarifying the process and helping to ensure that all legal obligations are satisfied.

Public Hearing: Project Review Applications. The hearing included 20 dockets, all of which were described in the public meeting and hearing notice. Mr. Muszynski presented the dockets in the customary three categories: Category A, consisting of docket renewals that involve no substantial changes (items 1 through 5); Category B, consisting of renewals that involve significant changes, such as an increase or decrease in an authorized withdrawal or discharge (items 6 through 10); and Category C, consisting of projects not previously reviewed by the Commission (items 11 through 20).

A. *Renewals with No Substantive Changes (items 1-5).*

1. Forest Park Water (North Penn and North Wales Water Authorities) D-65-76 CP-10. An application for the renewal of a project to continue to discharge up to 2 million gallons per day (mgd) of treated backwash water from the potable water treatment plant to Pine Run, a tributary of North Branch Neshaminy Creek. No expansion of the water treatment process or the wastewater treatment plant (WWTP) backwash is proposed. The project will continue to serve portions of Bucks and Montgomery Counties, both in Pennsylvania. The project is located in the non-tidal portion of the Neshaminy Creek Watershed in Chalfont Borough, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.
2. Abington Township D-73-191 CP-2. An application for approval of an upgrade of the Abington Township WWTP. The application is for the addition of biological nutrient removal, the addition of a 750,000 gallon equalization tank and associated upgrades for wet-weather flow conditions. The WWTP will continue to discharge 3.91 mgd as an annual average flow to the Wissahickon Creek, a tributary to the Schuylkill River. The project is located in Upper Dublin Township, Montgomery County, Pennsylvania.
3. Pennsgrove Water Supply Company D-93-77 CP-3. An application to replace the withdrawal of water from Well No. 11 in the applicant's water supply system with no increase in the total withdrawal. The existing Well No. 11 has become an unreliable source of supply. The total withdrawal from replacement Well No. 11A and all other wells will remain limited to 70.4 million gallons per thirty days (mg/30 days). The project is located in the Potomac-Magothy Formation in the Delaware River Watershed in Pennsgrove Borough, Salem County, New Jersey.
4. Westwood Golf Club D-96-3-2. An application for the renewal of a ground water withdrawal project to continue withdrawal of 5 mg/30 days to supply the applicant's golf course from existing Wells Nos. 2 and 3 in the Englishtown Aquifer. The project is located in the Lower Delaware Watershed in West Deptford Township, Gloucester County, New Jersey, in New Jersey Critical Water Supply Area 2.
5. William Henry Apartments D-68-92-2. An application for approval of upgrades of the existing William Henry Apartments WWTP to remedy operational issues. The WWTP will be modified to treat domestic wastewater at the hydraulic design of the facility, which is 69,000 gallons per day (gpd). The applicant's WWTP serves the William Henry Apartment complex and will continue to discharge to the headwaters of Ridley Creek. The project is located in East Whiteland Township, Chester County, Pennsylvania.

Mr. Muszynski recommended that the Commission approve the five dockets. Hearing no questions or comments from the Commissioners or the public, Ms. Myers requested a motion to approve the group of dockets consisting of renewals with non-substantive changes. Mr. Donnelly so moved, Mr. Klotz seconded the motion, and hearing items 1, 2, 3, 4, and 5 were approved by unanimous vote.

B. Renewals with Substantive Changes (items 6-10).

6. Aqua Pennsylvania, Inc. D-75-78 CP-2. An application for the renewal of a ground water withdrawal project to increase withdrawal from 3.6 mg/30 days to 8.3 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 2, 3 and 4 and one spring in the Duncannon, Polar Gap and Packerton members of the Catskill Formation. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Van Auken Creek Watershed in Waymart Borough, Wayne County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.
7. Kiamesha Artesian Spring Water Company, Inc. D-90-68 CP-3. An application for the renewal of a ground water withdrawal project and to increase withdrawal from 9.8 mg/30 days to 27.78 mg/30 days to supply the applicant's public water supply distribution system from the existing Filtration Plant Well and Fraser Road Well and two existing but heretofore undocketed intakes in Kiamesha Lake. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Kiamesha Creek Watershed in the Town of Thompson, Sullivan County, New York, within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.
8. Upper Gwynedd Township D-91-88 CP-3. An application for the approval of the rerate of the Upper Gwynedd Township WWTP from 4.5 mgd to 5.7 mgd as an annual average flow. The docket holder has also requested a 6.5 mgd value for a maximum monthly flow and a hydraulic design capacity. The WWTP will continue to discharge to the Wissahickon Creek, a tributary to the Schuylkill River. The project is located in the Upper Gwynedd Township, Montgomery County, Pennsylvania.
9. Lehigh County Authority D-2001-20 CP-2. An application for approval of a ground water withdrawal project to supply up to 30.94 mg/30 days of water to the applicant's public water supply distribution from new Wells A and B and to increase the existing withdrawal from all wells from 226 mg/30 days to 256.24 mg/30 days. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Allentown, Jacksonburg and Beekmantown formations in the Schaefer Run, Little Lehigh Creek, Cedar Creek and Iron Run watersheds in Upper Macungie Township, Lehigh County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.
10. Coolbaugh Township D-2006-23 CP-2. An application for approval to upgrade and expand an Existing WWTP from 0.052 mgd to 0.1 mgd by the addition of membrane filters to the existing membrane bioreactor. The addition of the membrane filters will improve treatment quality and detention time, so that no new tanks are required. The project is located in Coolbaugh Township, Monroe County, Pennsylvania. The plant discharges to the Tobyhanna Creek in the Lehigh River Watershed, which is in the drainage area of the Lower Delaware River portion of the DRB Special Protection

Waters. The WWTP will continue to serve a portion of Coolbaugh Township only and will continue to discharge through the existing outfall, which is upstream from Francis E. Walter Dam and Pocono Lake. Coolbaugh Township is currently pursuing the beneficial reuse of the WWTP effluent for irrigation of a nearby golf course during the summer months.

Mr. Muszynski recommended that the Commission approve the five dockets.

An audience member questioned how the long-term monitoring programs established for hearing items 6 and 7 would affect groundwater, especially during drought. Mr. Muszynski explained that monitoring wells are established and monitored in order to determine whether an impact is likely *before* any impact on the private wells in the surrounding areas occurs. He further explained that a condition is included in every groundwater withdrawal docket, stipulating that if interference with another well occurs, whether it be private or commercial, such interference must be reported to the Commission. The docket holder must investigate the matter and advise the Commission as to whether the evidence shows its withdrawal is having an impact on that particular well. If interference attributable to the docket holder is found, the Executive Director has the authority to order the appropriate change to repair any damage that may have been done.

In response to a comment from another audience member, Mr. Muszynski agreed to a correction regarding a date of compliance in the docket for hearing item 8.

Hearing no other questions or comments, Ms. Myers requested a motion to approve the group of dockets consisting of renewals with substantive changes. Mr. Klotz so moved, General Semonite seconded the motion, and hearing items 6 through 10 were approved by unanimous vote.

C. New Projects (items 11-20). Mr. Muszynski reiterated that the following six projects were either new discharges or withdrawals or were simply new to the Commission.

11. River Road Utilities, Inc. D-2006-38-1. An application to approve reconstruction and expansion of the existing Tuscarora WWTP. The discharge is proposed to increase from 49,000 gpd to 66,000 gpd and will continue to be to the Delaware River. The project is located in Upper Mount Bethel Township, Northampton County, Pennsylvania and discharges to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.
12. Wallace Township Municipal Authority D-2006-39 CP-1. An application for approval of a ground water withdrawal project up to 8.1 mg/30 days to the applicant's public water supply distribution system from new Wells Nos. PW-4, PW-6, PW-7, and PW-8. The project is located in the Granitic Gneiss Formation in the East Brandywine Creek Watershed in Wallace Township, Chester County, Pennsylvania.
13. East Brandywine Township Municipal Authority D-2007-2 CP-1. An application for approval of a WWTP project to serve proposed residential development in East Brandywine Township, Chester County, Pennsylvania. The proposed facility is designed to provide treatment of 0.3 mgd via sequencing batch reactor and tertiary filtration processes. The project is located at the intersection of East Reeceville and Bollinger Roads in East Brandywine Township. Following ultraviolet light

disinfection, WWTP effluent will be discharged to a spray irrigation system of the proposed golf course and driving range, and, when necessary to a drip irrigation field.

14. Forrest Glen Estates, LLC D-2007-8-1. Application for approval to discharge up to 33,750 gallons per day to a holding pond and subsequently through a spray irrigation system to irrigate 14.5 acres of woodlands. Wastewater will be generated from the applicant's proposed 134 one-acre single-family residential lots and an 18-acre existing homestead on a 313-acre tract. The project is located in the Dingmans Creek Watershed in Delaware Township, Pike County, Pennsylvania.
15. Vogel Farm and Broad Mountain Spring Water Companies D-2007-10-1. An application for approval of a ground water withdrawal project to supply up to 6.26 mg/30 days of water to the applicant's bottled water truck loading facilities from new Wells VFPW1, VPFW2, and BMPW1. The project is located in the Mauch Chunk Formation in the Quakake Creek Watershed in Packer Township, Carbon County, Pennsylvania within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.
16. Hamlet of Bloomville – Community Wastewater Management Program D-2007-11 CP-1. An application for approval to construct a centralized wastewater treatment system to serve the Hamlet of Bloomville, which is currently served by on-lot septic systems. Two 0.03 mgd septic tanks will be provided, but each will be typically operated at an average flow of 0.015 mgd, so that maintenance can be performed periodically without a disruption of service. The septic tank effluent will be pumped to sand filters prior to subsurface discharge to cut-and-fill adsorption leach beds. The project is located in the Wright Brook and West Branch Delaware River watersheds upstream from Cannonsville Reservoir in the Town of Kortright, Delaware County, New York, which is in the drainage area of the Upper Delaware River portion of the DRBC Special Protection Waters.
17. Hamlet of Hamden – Community Wastewater Management Program D-2007-12 CP-1. An application for approval to construct a centralized wastewater treatment system to serve the Hamlet of Hamden, which is currently served by on-lot septic systems. Two 0.026 mgd septic tanks will be provided, but each will be typically operated at an average flow of 0.013 mgd, so that maintenance can be performed periodically without a disruption of service. The septic tank effluent will be pumped to sand filters prior to subsurface discharge to cut-and-fill adsorption leach beds. The project is located in the Launt Hollow Creek and the West Branch Delaware River watersheds upstream from Cannonsville Reservoir in the Town of Hamden, Delaware County, New York, which is in the drainage area of the Upper Delaware River portion of the DRBC Special Protection Waters.
18. Wallace Township Municipal Authority D-2007-17 CP-1. An application for approval to construct a 0.185 mgd WWTP to serve the proposed Hamilton development, located predominantly in Wallace Township, Chester County, Pennsylvania. A small portion of the 636-acre site extends into West Nantmeal Township, also in Chester County. Approximately 688 residential dwellings and supporting commercial buildings will be served. Following advanced treatment in parallel sequencing batch reactors, the

effluent will be filtered and disinfected by ultra-violet light prior to land application via drip irrigation. The proposed WWTP and drip irrigation fields are located north of the intersection of Fairview and Creek Roads in the East Brandywine Creek Watershed in Wallace Township. No discharge to surface waters is proposed.

19. Dragon Springs Buddhist, Inc. D-2007-21-1. An application for approval to construct an 11,000 gpd WWTP and discharge the effluent to an unnamed tributary of the Basher Kill, a tributary of the Neversink River. The discharge is located in the drainage area of the Middle Delaware Special Protection Waters. The project is located in the Town of Deerpark, Orange County, New York. The project WWTP will treat wastewater from a proposed multi-purpose building, which will be constructed on 4.4 acres of forested land. The existing temple complex is served by septic systems that process less than 10,000 gallons per day (gpd). Several of these mound-type systems will continue to be used due to their remote location on the property and their efficient operation.
20. Diamond Sand and Gravel, Inc. D-2007-27-1. An application for approval of a ground water withdrawal project to supply less than 3.1 mg/30 days of water to the applicant's sand and gravel plant from new Wells Nos. 1 and 2A. The project is located in the Leithsville Formation in the Paulins Kill Watershed in Sparta Township, Sussex County, New Jersey, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

Mr. Muszynski recommended that the Commission approve the ten new projects.

Mr. Donnelly questioned the supply of 8.1 mg/30 days proposed in item 12 in light of the 0.185 mgd of treatment capacity proposed in item number 18. Both dockets relate to the Wallace Township Municipal Authority. Mr. Muszynski noted that the supply of 8.1 mg/30 days proposed in item 12 was the peak quantity over a 30-day period, whereas the sum of 0.185 mgd for the wastewater treatment plant proposed in item 18 constitutes a daily loading.

With respect to hearing item 15, Mark Hartle of the Pennsylvania Fish and Boat Commission asked whether any impact on the spring was anticipated in connection with the proposed withdrawal. Mr. Muszynski said he had been informed that the pump tests showed no impact on surface water in connection with the proposed withdrawal. Ms. Alysa Suero added that the Fish and Boat Commission had raised no concerns about the project during telephone discussions.

Hearing no further comments or questions, Ms. Myers requested a motion for approval of the ten dockets for new projects. Mr. Donnelly moved for approval of hearing items 11 through 20. Mr. Klotz seconded the motion and the ten dockets were approved by unanimous vote.

Public Hearing: Resolution to Extend Temporary Designation of the Lower Delaware River as a Special Protection Water Pending Completion of a Rulemaking on Permanent Designation. Dr. Kenneth Najjar of the Planning and Information Technology Branch explained that the proposed resolution would extend through May 15, 2008 the temporary designation of the Lower Delaware as a Special Protection Water (SPW). DRBC has initiated a rulemaking process to make the SPW classification of the Lower Delaware permanent. The process will include informational meetings on October 25 in Stockton and on November 1 in Easton, and a public hearing on December 4 at the DRBC office building. The comment period will close on

December 6. While the rulemaking process for permanent SPW designation of the Lower Delaware goes forward, an extension of the temporary designation would provide a measure of protection for the Lower Delaware through May 15, 2008. Temporary designation will otherwise expire on September 30, 2007. The temporary SPW designation initially was made in early 2005 and was extended in 2005, 2006 and 2007, after notice and comment rulemaking in each case, to allow additional time for water quality data to be compiled and for implementation issues to be resolved.

The proposed permanent designation would include numeric values for existing water quality (EWQ). If approved, it will subject new and expanding discharges to the constraint that they must not adversely affect EWQ. Pending completion of this rulemaking, temporary SPW designation will allow DRBC to apply other aspects of the SPW regulations in the Lower Delaware.

DRBC received 20 written comments on the proposed extension through May 15 of temporary SPW status for the Lower Delaware. Eighteen of these were in favor of extending the designation. Representatives of the Philadelphia Water Department and the Delaware Riverkeeper Network (DRN) requested to offer oral testimony.

Tracy Carluccio of DRN stated that her organization is thrilled that the process for permanent SPW designation of the Lower Delaware is under way. She said it has been a long time coming. DRN supports extension of the interim designation.

Christopher Crockett of the Philadelphia Water Department (PWD) said that PWD applauds what the Commission has done. PWD supports extending temporary SPW designation and making the designation permanent, not only because the protection is good for water supply, but also because it is good for recreation. He noted that the PWD would like DRBC to consider requiring year-round disinfection for wastewater discharges to SPW. Currently, many upstream wastewater treatment plants are required only to perform seasonal disinfection of their effluent. Mr. Crockett said that PWD also requests that tree canopy protection and land use protections be included in the SPW non-point source control requirements.

Hearing no further questions or comments, Ms. Myers called for a motion to approve the proposed resolution to extend temporary designation of the Lower Delaware River as a Special Protection Water pending completion of a rulemaking on permanent designation. Mr. Klotz so moved, Mr. Donnelly seconded the motion, and Resolution No. 2007-13 was approved by unanimous vote.

Public Hearing: Resolution Authorizing the Executive Director to Provide Public Notice of Any Agreement of the Parties to the Supreme Court Decree in *New Jersey v. New York* Regarding Operations of the City of New York's Delaware River Basin Reservoirs and to Publish for Public Comment and Hearing Proposed Regulations to Implement Any Decree Party Agreement. Mr. Stephen F. Blanchard, Delaware River Master; Mr. Gary N. Paulachok, Deputy Delaware River Master and Dr. Durbhakula Muralidhar of the New York State Department of Environmental Conservation described the FFMP generally and provided details about aspects of the program.

An official transcript of the entire hearing on this topic, including the above noted presentations, testimony by members of the public, and remarks of the Commissioners, was prepared by

Sargent's Court Reporting Service, Inc. The transcript will be posted temporarily on the Commission's website and thereafter may be viewed upon request directed to the Commission Secretary, the Information Resources Coordinator, or the Freedom of Information Act officer.

Hearing no further comments or questions, Ms. Myers requested a motion for approval of the resolution to authorize the Executive Director to provide public notice of any agreement of the Parties to the Supreme Court Decree in *New Jersey v. New York* regarding operations of the City of New York's Delaware River Basin reservoirs and to publish for public comment and hearing proposed regulations to implement any Decree Party agreement. Mr. Donnelly so moved, Mr. Klotz seconded the motion, and Resolution No. 2007-14 was approved by unanimous vote.

Resolution Concerning a Pennsylvania Coastal Zone Management Program Grant to Develop a Pilot Special Area Management Plan for the Upper Wissahickon Watershed. Dr. Najjar explained that the purpose of this resolution is to authorize DRBC to receive and expend funds from the Pennsylvania Department of Environmental Protection (PADEP) for development of a Special Area Management Plan in accordance with the Pennsylvania Coastal Zone Management Program and the State Water Resources Planning Act. Staff of the DRBC, the Upper Wissahickon Watershed Association, the Montgomery County Planning Commission, and the Pennsylvania Environmental Council will participate jointly in the effort. Funding in the amount of \$145,000 has been received for this program, and additional funding of up to \$100,000 may be forthcoming.

Hearing no questions or further comments, Ms. Myers called for a motion to approve the proposed resolution. Mr. Donnelly so moved, Mr. Klotz seconded the motion, and Resolution No. 2007-15 was approved by unanimous vote.

Public Hearing: Resolution Amending Resolution No. 2005-1 to Restore Text Unintentionally Omitted from the Project Review Fee Schedule. Ms. Bush explained that this resolution would correct an error made two years ago when the Commission approved Resolution No. 2005-1, modifying the Project Review Fee Schedule. The 2005 modification added new paragraphs 11 through 14, intended to provide incentives for applicants to submit their applications in a timely fashion and disincentives for failing to do so. The new paragraphs were properly inserted, but at the same time, a few lines were inadvertently omitted from a table contained in the resolution. The omitted lines establish the rate to be applied in calculating the review fee for projects above \$10 million in total costs.

Although the lines were omitted from the schedule as set forth in Resolution No. 2005-1, the Project Review Branch has consistently applied the rate established by the missing lines. Until very recently, no question about the matter ever arose. This is likely due to the fact that the error was not carried over to the form used by applicants to calculate the appropriate fee. There was no intent on the part of the Commissioners to alter the table. The proposed resolution would restore the table to its exact wording prior to Resolution No. 2005-1.

Hearing no questions or comments, Ms. Myers called for a motion to approve the proposed resolution correcting an inadvertent omission in the Project Review Fee Schedule established by Resolution No. 2005-1. General Semonite so moved, Mr. Donnelly seconded his motion, and Resolution No. 2007-16 was approved by unanimous vote.

Resolution for the Minutes to Approve Participation by DRBC staff in a State of New Jersey Long-Term Care Insurance Program. Mr. Gore explained that the Commission procures health benefits for its employees through the State of New Jersey Employee Health Benefits Plan, for purposes of which DRBC is recognized by the State as a “local public employer.” Several years ago, New Jersey developed a voluntary long-term care insurance program, which until recently was available only to state employees. New Jersey has now made the program available to local public employers. DRBC wishes to offer this voluntary program to its employees and retirees at no cost to the Commission. The insurance is administered and underwritten by Prudential Insurance Company of America.

Mr. Gore indicated that two resolutions were proposed – a corporate resolution prescribed by the State of New Jersey Division of Pensions and Benefits and a resolution for the minutes. He further noted that the Commission’s personnel policies manual would be revised to reflect the availability of this additional benefit.

Hearing no questions or further comments, Ms. Myers called for a motion to approve both the corporate resolution required by the Division of Pensions and Benefits electing to offer the State of New Jersey’s Long-Term Care Insurance Plan to employees and retirees, and a resolution for the minutes amending the *Administrative Manual, By-Laws, Management and Personnel* to provide Commission employees with the opportunity to purchase Long-Term Care Insurance through the State of New Jersey. Mr. Donnelly so moved, Mr. Klotz seconded his motion and Resolution No. 2007-17 and the following Resolution for the Minutes were both approved by unanimous vote.

The complete text of the Resolution for the Minutes follows:

RESOLUTION FOR THE MINUTES

A RESOLUTION for the Minutes amending the *Administrative Manual, By-Laws, Management and Personnel* to provide Commission employees with the opportunity to purchase Long-Term Care Insurance through the State of New Jersey.

WHEREAS, the State of New Jersey has extended to “local” government employers, which by definition include the Commission, the option to offer their active and retired employees the opportunity to participate in the State of New Jersey’s Long-Term Care Insurance Plan underwritten by The Prudential Insurance Company of America; and

WHEREAS, the cost of this insurance is to be borne entirely by the employees and retirees who choose to purchase it; and

WHEREAS, recognizing that long term care insurance can be a significant economic and social benefit, the Commission wishes to take advantage of the opportunity afforded by the State to make this benefit available to Commission employees and retirees should they elect to participate; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. Sections 5.7A, B, C, D and F of the *Administrative Manual, By-Laws, Management and Personnel*, enumerating the fringe benefits to be provided by the Commission to full-time permanent, full-time temporary, part-time permanent and part-time temporary employees, and retirees, respectively, each shall be amended by the addition of the phrase, "Optional participation in the State of New Jersey's Long-Term Care Insurance Plan."

2. Participation in this program by eligible employees and retirees shall be voluntary, and premium costs associated with participation shall be borne entirely by the employee or retiree.

3. This Resolution shall take effect immediately.

Add-On: Resolution Authoring the Executive Director to Issue a Bid Request for Building Modifications for the Ruth Patrick River Garden. Mr. Gore explained that approximately two years ago the Commission recognized Dr. Ruth Patrick and indicated a desire to improve the Commission's courtyard facility, which would be named in honor of Dr. Patrick. The proposed resolution would authorize the Commission to solicit bids to complete some building modifications required to construct the approved courtyard design.

Hearing no questions or comments, Ms. Myers called for a motion to approve the resolution authorizing the Executive Director to solicit bids for building modifications associated with development of the Ruth Patrick River Garden. Mr. Donnelly so moved, Mr. Klotz seconded the motion and Resolution No. 2007-18 was approved by unanimous vote.

Public Dialogue. Hearing no further requests to comment from the Commissioners or the audience, Ms. Myers requested a motion to adjourn. Mr. Donnelly so moved, Mr. Klotz seconded the motion and the Commission's business meeting was adjourned at 6:30 p.m.

/s/ Pamela M. Bush

Pamela M. Bush., Esquire, Commission Secretary