

DELAWARE RIVER BASIN COMMISSION

MEETING OF MARCH 12, 2008

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
Joseph A. Miri, Vice Chair, New Jersey
Mark Klotz, Second Vice Chair, New York
Katherine Bunting-Howarth, Delaware
Harry W. Otto, Delaware
Lieutenant Colonel Gwen E. Baker, United States

DRBC Staff participants: Carol R. Collier, Executive Director
Robert Tudor, Deputy Executive Director
Kenneth J. Warren, DRBC General Counsel, Hangley, Aronchik, Segal & Pudlin
Pamela M. Bush, Commission Secretary & Assistant General Counsel
Thomas J. Fikslin, Modeling, Monitoring & Assessment Branch Manager
Richard K. Fromuth, Water Resources Engineer
Richard C. Gore, Chief Administrative Officer
William J. Muszynski, Water Resources Management Branch Manager
Kenneth F. Najjar, Planning and Information Technology Branch Manager

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 December 12, 2007. Mr. Klotz so moved, Lt. Col. Baker seconded his motion, and the Minutes of the December 12, 2007 Commission Meeting were approved by unanimous vote.

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

- *DRBC Flood Advisory Committee Meeting.* Wednesday, May 7, 2008 at 10:00 a.m. in the Goddard Conference Room, DRBC, 25 State Police Drive, West Trenton, NJ. The staff contact is Laura Tessieri, (609) 883-9500, extension 304.
- *Free Citizen Science Program Series.* Schuylkill Center for Environmental Education holds its free programs series every other week on Thursday evenings from March 13, 2008 through May 22, 2008. Programs begin with poster session at 6:30 p.m. and presentation at 7:00 p.m. Pre-register by calling (215) 482-7300, extension 110.
- *Watershed Stream School.* Sponsored by Delaware River Greenway Partnership, in conjunction with Stroud Water Research Center and New Jersey Department of

Environmental Protection (NJDEP) on Tuesday, March 25 and Wednesday, March 26, 2008 at Prallsville Mills in Stockton, NJ from 9:00 a.m. to 4:30 p.m. Fee is \$40 including breakfast, lunch and all materials. Contact Danielle Donkersloot, NJDEP, at (609) 397-8287.

- *2008 Lehigh Valley Watershed Conference and Shad Symposium.* Wildlands Conservancy, Lehigh County Conservation District, and Pennsylvania Fish and Boat Commission, along with other partners, will hold a conference on Friday, March 28, 2008 at the Holiday Inn in Fogelsville, PA. Contact Rebecca Kennedy, Lehigh County Conservation District, at (610) 391-9581, extension 18 or by email at rkennedy@lehighconservation.org.
- *Applied Environmental Statistics Course.* May 12-16, 2008 at the Rutgers EcoComplex in Bordentown, NJ.
- *Sixth National Water Quality Monitoring Conference.* May 18-22, 2008 at the Atlantic City Convention Center, Atlantic City, NJ. Focus on *Monitoring: Key to Understanding Our Waters*, centering on seven themes highlighting the importance of monitoring and the necessity of clean water for all.

Hydrologic Conditions. Bill Muszynski reported on hydrologic conditions in the Basin.

The observed precipitation for the Delaware River Basin above Montague, New Jersey during the calendar year 2007 was 47.63 inches or 4.37 inches above normal. The observed precipitation for the Delaware River Basin above Trenton, New Jersey for the same period was 49.27 inches or 4.38 inches above normal. Also for the same period, the observed precipitation for Wilmington, Delaware was 41.81 inches or 1.00 inches below normal.

The average observed streamflow of the Delaware River at Montague, New Jersey in February 2008 was 15,726 cubic feet per second (cfs) or 276 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 32,181 cfs, or 233 percent of the long-term average for the month.

For the period from March 1 through March 10, 2008, the average observed streamflow of the Delaware River at Montague was 31,371 cfs, or 550 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 55,190 cfs, or 399 percent of the long-term average for the month.

In the Lower Basin, as of March 11, 2008, Beltzville Reservoir contained 15.23 billion gallons (bg) usable, or 117.2 percent of usable storage, and Blue Marsh contained 6.85 bg usable, or 143.9 percent of winter pool usable storage. As of March 10, Merrill Creek contained 15.549 bg usable, or 99.1 percent of usable storage.

In the Upper Basin, as of March 11, 2008, Pepacton Reservoir contained 142.435 bg usable, or 101.6 percent of usable storage. Cannonsville contained 101.226 bg usable, or 105.8 percent of usable storage. Neversink contained 35.194 bg usable, or 100.7 percent of usable storage. Total

New York City Delaware Basin reservoir storage was 278.855 bg usable, or 103.0 percent of usable storage.

As of March 10, 2007 the average ground water level in eight reported USGS observation wells in the Pennsylvania portion of the Basin was above the long-term average for the month. Water levels expressed as 30-day moving averages at four of those wells were within their normal range for this time of the year while water levels at the remaining four wells were above 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 February 14, the water levels at the New Castle County, Delaware coastal plain observation well were within their normal range.

During the month of February 2008, 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) 71 to below Reedy Island at RM 54. The normal location of the salt line during February is RM 68, a location which is one mile downstream of the Delaware Memorial Bridge. As of March 10, the salt line was located at RM 66, which is one mile downstream of the normal location for March.

Ms. Myers asked Mr. Muszynski to confirm that water was being released from the reservoirs under the FFMP. Mr. Muszynski said that Cannonsville and Pepacton were releasing at the L2 level, and Neversink was releasing at the L1 level. He explained that full releases were not being made at two of the three reservoirs because in accordance with the FFMP, the combination of spill and release at these reservoirs had triggered a reduction in releases to the L2 rate.

Ms. Myers asked whether there were any comments or questions on the hydrologic report. Elaine Reichart of Aquatic Conservation Unlimited asked whether diversions also were being made to help lower the reservoir levels, since the New York City aqueduct had been reopened following an inspection dive. Mr. Muszynski said the City still was not diverting water from the three main reservoirs because Rondout was spilling. He said that as long as Rondout was spilling, diversions would continue from there to minimize the amount spilled.

In response to a question from Mary Ellen Noble of the Delaware Riverkeeper Network Mr. Muszynski said the tunnel work had been completed the previous Monday. The equipment had then to be removed and water conveyance gradually re-commenced. However, he said that diversions from the Delaware reservoirs would only begin again when spilling from Rondout stopped. Ms. Reichart asked whether the Commission members knew the results of the inspection. Mr. Muszynski said it would be necessary for Ms. Reichart to ask the City's representative, who was not present today. Ms. Myers said she imagined there would be a lot of photography to analyze and that the City likely would consider the details sensitive from a security standpoint. She said she hoped the Commission would be able to obtain general information on the findings.

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

- *DRBC Staffing.* The newest staff member is Amy Shallcross, an engineer with undergraduate and graduate degrees from Tufts University, who will be DRBC's Operations Supervisor. Amy has worked for the New Jersey Water Supply Authority since 2001. Ms.

Collier thanked Bill Muszynski, Amy Shallcross and Clarke Rupert for doing yeoman's work in tracking the storm of the preceding weekend.

- *Key DRBC Activities.* In addition to responding to flooding issues, DRBC has three major regulatory actions under way. Ms. Collier said a comment and response document was under development for the Special Protection Waters rulemaking, which would likely be on the May agenda. Review of the comments submitted on Water Code changes to support the FFMP was also under way, with possible action in July. Staff is also developing a uniform PCB criterion for the Delaware Estuary, including an implementation plan, with action anticipated in December.
- *Federal Funding.* The Water Resources Development Act (WRDA) of 2007 provides a new authorization for funding of the federal government's share of DRBC's operating expenses. The legislation provides that the Secretary of the Army *shall* fund DRBC as well as two other river basin commissions. Staff are using this new authorization to work with Senate and House members to secure appropriations so that new money flows to the U.S. Army Corps of Engineers or to independent agencies for this purpose. Congressman Tim Holden is championing an appropriation for all three interstate-federal basin commissions -- the Delaware, the Susquehanna and the Potomac and has made this his first appropriation priority. In addition, chairs of the Delaware River Basin Congressional Task Force -- congressmen Holt-NJ, Hinchey-NY, Dent-PA and Castle-DE all are supporting the appropriation by including it in their individual requests as well as submitting a multi-party letter to the appropriate committee chairs. On the Senate side, DRBC has support from all eight senators, with Senator Specter leading the charge. Anyone interested in supporting DRBC should send letters of support to their congressmen or senators. Letters to congressmen must be received by March 19, and senators must finalize their appropriation requests by March 28. Please see Communication Manager Clarke Rupert for more information.
- *DRBC Office Headquarters Building.* DRBC has enough funds to begin implementing planned improvements to the courtyard. The first phase consists of structural changes, including replacing windows in the Library and main building entrance with glass doors and larger windows to provide greater access to the courtyard. Currently there is just one steel door. We have received about \$3,000 in outside contributions and are hoping to improve that in order to begin some of the hardscape during the summer. Work on the HVAC system is also under way. An initial stage of that effort is retrofitting some of the lighting so that it is more energy efficient and replacing some of the ballasts. The next phase of proposals also is being developed for completing the stormwater retrofit work outside.
- *Other Events.*
 - ⌘ The Water Resources Association of the Delaware River Basin (WRA) holds its annual dinner on April 16, 2008.
 - ⌘ The 14th Annual Delaware River Sojourn will take place the week of June 22-28, 2008.

General Counsel's Report. Mr. Warren noted that at the last Commission meeting he had reported on two dockets -- for the Borough of South Coatesville and Congoleum Corporation, respectively -- in which staff were working out corrections to discharge limits. Mr. Warren said

he believed this has been accomplished and the dockets were scheduled for hearing during this session.

The single piece of ongoing litigation is the M & M Stone litigation. DRBC, in conjunction with Pennsylvania Department of Environmental Protection and other defendants is working on a supplemental motion following an Environmental Hearing Board decision that firmly upheld PADEP's actions in the matter. The motion will ask the court to dismiss the case in light of this favorable EHB decision. Mr. Warren said that any decision from the court was likely many months away.

Public Hearing: Project Review Applications. Although the hearing notice listed 22 dockets, consideration of one docket – The Premcor Refining Group, Inc., D-93-4-6 (hearing item 7) – was postponed to allow additional time for review. Mr. Muszynski presented the remaining 21 projects in three categories: Category A, consisting of docket renewals involving no substantial changes (items 1 and 5); Category B, consisting of renewals involving significant changes, such as an increase or decrease in an authorized withdrawal or discharge (items 2, 3, 4, 6, 8, 9, and 10); and Category C, consisting of projects not previously reviewed by the Commission (items 11 through 20). Two of the dockets – Congoleum Corporation, D-2005-25-2 (hearing item 21), and Borough of South Coatesville, D-74-39 CP-3 (hearing item 22) – involved corrections to dockets issued previously.

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

1. Freeland Borough Municipal Authority D-94-63 CP-2. An application for the renewal of a ground water withdrawal project to continue withdrawal of 17.2 million gallons per thirty days (mg/30 days) to supply the applicant's public water supply distribution system from existing Wells Nos. 9, 12 and 14 in the Buck Mountain Mauch Chunk Formation. The project is located in the Pond Creek Watershed in Freeland Borough, Luzerne 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.
5. Fifer Orchards, Inc. D-2002-20-2. A combined ground and surface water withdrawal project to continue to supply a maximum of 543 mg/30 days of water to the applicant's irrigation of approximately 2,285 acres of fruit and vegetables through two new wells, nine existing wells and nine existing intakes. The wells are located in the Columbia Formation in the St. Jones River Watershed in the City of Wyoming, Kent County, Delaware. Surface water will be withdrawn from a series of on-site ponds in the St. Jones River Watershed.

Mr. Muszynski recommended approval of hearing items 1 and 5. Hearing no questions or comments from the commissioners or the public, Ms. Myers requested a motion to approve the two dockets. Mr. Klotz so moved, Dr. Howarth seconded, and hearing items 1 and 5 were approved by unanimous vote.

B. Renewals with Substantive Changes (items 2, 3, 4, 6, 8, 9 and 10).

2. Township of Roxbury D-96-17 CP-2. An application for the renewal of a ground water withdrawal project to supply up to 19.8 mg/30 days from existing Wells Nos. 2, 4, 9 and 12. The project is located in the Stratified Drifts Aquifer in the Musconetcong River Watershed in Roxbury Township, Morris 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.
3. Smithfield Beef Group (MOPAC) D-96-21-3. An application for approval of an upgrade of the existing 0.75 million gallon per day (mgd) industrial wastewater treatment plant (IWTP) in accordance with a Consent Order and Agreement issued by PADEP. The upgrade includes a new anaerobic lagoon, a new tertiary filtration system and a new ultraviolet light (UV) disinfection system. The IWTP will continue to discharge to the Skippack Creek. The IWTP is located in Franconia Township, Montgomery County, Pennsylvania.
4. Nestlé Waters North America, Inc. D-98-27-3. An application for the renewal of a spring water withdrawal project to continue withdrawal of 9 mg/30 days to supply the applicant's bottled water operations from existing Hoffman Springs Nos. 1, 2 and 3 to supply up to 1.95 mg/30 days from the new Mattos Catchment No. 1 to supplement flow in Ontelaunee Creek. The project is located in the Ontelaunee Creek Watershed in Lynn Township, Lehigh County, Pennsylvania.
6. Ambler Borough D-75-16 CP-2. An application for approval of a rerate of the Ambler Borough wastewater treatment plant (WWTP) to 8.0 mgd as a maximum monthly value. The WWTP's existing 6.5 mgd annual average flow will remain unchanged. The WWTP will continue to discharge to the Wissahickon Creek, a tributary to the Schuylkill River. The facility is located in Ambler Borough, Montgomery County, Pennsylvania.
8. Aqua Pennsylvania, Inc. D-97-3-2. An application to use Wells Nos. 1 and 2 at the former Simpson Paper Company to serve the applicant's potable water supply system. The applicant seeks a maximum withdrawal of 42 mg/30 days from Wells Nos. 1 and 2, representing no change from the maximum combined withdrawal from the wells. The project is located in the Conestoga Formation in the Schuylkill River Watershed in Whitemarsh Township, Montgomery County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.
9. Town of Felton D-99-26 CP-2. An application for the renewal of a ground water withdrawal project and to decrease the maximum withdrawal from 5.7 mg/30 days to 5.328 mg/30 days to supply the applicant's public water supply distribution from existing Wells Nos. 2, 3 and 4 in the Frederica and Piney Point formations. The project is located in the Fan Branch Watershed in the Town of Felton, Kent County, Delaware.
10. Upper Hanover Authority D-2001-61 CP-2. An application for approval of a WWTP expansion project that will increase treatment capacity from 0.15 mgd to 0.40 mgd, while maintaining existing effluent quality via the addition of sequencing batch reactor

and tertiary filtration processes. The existing WWTP has reached its design capacity and the expansion project is needed to serve new development in Upper Hanover Township, Montgomery County, Pennsylvania. Following ultraviolet light disinfection, the WWTP effluent will be discharged to Macoby Creek, a tributary of Perkiomen Creek, within the Schuylkill River Watershed. The project is located in the Southeastern Pennsylvania Ground Water Protected Area.

Mr. Muszynski recommended that the seven dockets be approved.

In connection with the Nestlé Waters North America, Inc. docket and in partial response to a Pennsylvania Fish & Boat Commission letter that had just been received, Ms. Myers said that she wished to advise the commissioners that an intensive discussion and negotiation had been conducted among the applicant, the Fish & Boat Commission, and PADEP staff, over the preceding six months to a year. These parties had shared data, information and modeling results, to develop an understanding of how the affected watershed works as a whole, and to ensure it would be regulated to achieve the least impact from the applicant's operations. She asked the applicant and Carol Collier as executive director to ensure that the applicant submitted a satisfactory operation and monitoring plan within the next 30 days to address the Fish & Boat Commission's concerns about pass-by flows on one of the two stream branches involved, including triggers on when augmentation would occur and how releases would be made to effect a substitute for pass-by flow. She noted that the F&BC had suggested that specific triggers for commencing and ceasing flow augmentation be established in the operating plan so that everyone would understand how the program would protect the stream. She added that PADEP was supporting the docket, which in the agency's view contains many creative elements beneficial to the water resource. She noted as well that monitoring to be undertaken as a condition of the docket would allow the applicant and the state to discover any problems. Baseline monitoring was completed previously. She added there habitat improvement efforts were being undertaken those required by the state permit or this docket to further increase the likelihood of ensuring a flourishing Class A trout fishery in both streams within the watershed. She reiterated that PADEP was supporting the docket and recommended it be approved.

Ms. Myers then noted that three or four of the projects described by Mr. Muszynski involved reductions and remarked that she had not seen many such requests in the past. Mr. Muszynski replied that populations in the affected areas are thinning and that a portion of the reductions likely can be attributed to conservation. He said that people are using less water than projected ten years ago. Mr. Muszynski said he included the dockets in Category B, which more typically includes increases, because he thought it important to flag the decreases as substantive changes in the opposite direction.

Lt. Col. Baker asked whether a monitoring program similar to that required in the Nestlé docket was also being required for the Smithfield Beef Group. Mr. Muszynski said that the Smithfield Beef docket requires monitoring solely to demonstrate whether or not the applicant is capable of meeting the Commission's temperature restrictions. The more elaborate requirements for the Nestlé docket include streamflow and wetland monitoring at specific locations, and fish population analyses.

On behalf of the New Jersey American Indian Alliance, Danawa Buchanan applauded the DRBC and its stewardship but said her group remains we concerned about the IFIM policy and asked

that the Commission remain vigilant in scrutinizing the impacts on Ontelaunee Creek of the Nestlé withdrawal.

Mr. Muszynski said that when the monitoring results are submitted annually to PADEP, the PA F&BC and the Commission, they will be presented to the agencies at a meeting as well as in written form. Ms. Myers noted that determining how much water has to remain in a stream to support fish and macroinvertebrates is a complex and difficult problem that DRBC has been helping to address within other streams, including the Upper Delaware. The Susquehanna River Basin Commission (SRBC) applies a set of criteria that is somewhat different from that used by DRBC, and Pennsylvania uses yet another set of criteria. Ms. Myers said the agencies are attempting to learn from one another. She said an initial meeting had taken place among staff of the three agencies, including PADEP's regional offices, permit writers and science development personnel to consider in part what tools are being utilized elsewhere that might help in our region. The Pennsylvania State Water Plan effort has highlighted this issue because it defines "safe yield" to account for the present projected future needs of a stream, including instream use. Ms. Myers said that in working on this problem, the agencies are attempting to engage multiple partners. They hope to hold workshops and training and will let people know when they have an approach that is ready for public consideration.

Mr. Muszynski said that in evaluating available data and information relevant to determining instream flow requirements of a particular stream, the Commission has been supportive of looking at the results of Pennsylvania's IF model. He noted, however, that in the case of the Nestlé withdrawal, there are significantly more observed data than are ordinarily available.

Tim Weston, counsel for Nestlé Waters, noted that the company has invested in an extensive watershed monitoring network to try to provide additional data evaluating the relationships between water, instream habitat and actual biomass. He said this is probably one of the best researched projects on a stream in the Eastern United States. It has gone on now for ten years and will continue for the next five. Although the Pennsylvania instream flow model provides perhaps an initial indication of the habitat and biomass that are expected based upon particular flows, Mr. Weston said that investigators have found on this particular stream that the model's predictions do not hold up. In fact, some of the lowest biomass occurred on this stream in some of the highest flow years. Further work to try to understand that result indicated that the instream meso-habitat, including pools, were not stable. This stretch of stream was straightened by some past highway building project and as a result, a high biomass of trout was observed in one year where an extremely low biomass was observed in the next, even though flows across the two years were almost equal. A hurricane came through and wiped out debris dams, leaving the area without pools, and there was no place for the trout to stay. Mr. Weston said that the company is trying to establish pools on a stable basis in the stream so that it is not functioning like a rain gutter but is actually a living stream that will stay in place. The company's investment in research aims at trying to understand trout habitat as the result of a combination of factors rather than merely as an index of flow volumes. In an investment that extends well off the Nestlé property as part of an adopt-a-stream program, the company has made instream improvements and added trees along a riparian corridor that was previously stripped of vegetation by farms. The project is attempting to restore the entire upper Ontelaunee watershed to a better condition than it has seen for many years.

Hearing no other questions or comments, Ms. Myers requested a motion to approve the group of seven dockets consisting of renewals with substantive changes – hearing items 2, 3, 4, 6, 8, 9, and 10. Dr. Miri so moved, Mr. Klotz seconded, the dockets were approved by unanimous vote.

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

11. Mountain Hill Cottages D-2005-2-1. An application to upgrade the septic system that serves the Mountain Hill Cottages development located off Cold Spring Road approximately 2,000 feet north of its intersection with Cantrell Road in the Town of Thompson, Sullivan County, New York. An additional septic system will be constructed to treat 5,250 gallons of flow. The effluent from the proposed septic system will be routed to a 14,000 gallon per day sand filter, which recharges the groundwater. No expansion of the sand filter is required, but a new chlorine contact tank will be provided. The project is in the Bush Kill Watershed, upstream from its confluence with the Neversink River in the drainage area of DRBC Special Protection Waters.
12. Valleybrook Golf Club D-2006-21-1. An application for approval of a surface water withdrawal project to supply up to 7 mg/30 days of water to the applicant's golf course irrigation system from three surface water intakes on a lake and retention ponds, respectively, on Pines Run. The project is located in the Pines Run Watershed in Gloucester Township, Camden County, New Jersey.
13. Pocono Manor Investors Pt. 1, L.P. D-2006-43-1. A revised application for approval of a ground water withdrawal project to supply up to 15.984 mg/30 days of water to the applicant's Pocono Manor site from new Wells Nos. 1, 2 and 3 and to limit the existing withdrawal from all wells to 15.984 mg/30 days. The wells will serve Phases I, II-A, III & II-B of the docket holder's revised residential and commercial development plans. The project is located in the Catskill Formation in the Brodhead/Swiftwater Creek Watershed in Pocono Township, Monroe County, Pennsylvania. The location is also within the drainage area to the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters.
14. Wayne Economic Development Corporation D-2007-18-1. An application for the approval of the new Sterling Business Park WWTP. The new 35,000 gpd WWTP will service the 252-acre Sterling Business Park of the Wayne County Economic Development Corporation (WEDCO). The Sterling Business Park will consist of up to 23 commercial building sites, ranging in size from 3 to 30 acres. The project includes a 7,000 gpd non-potable water reuse system for restrooms and landscape irrigation. The applicant's WWTP will discharge to the West Branch Wallenpaupack Creek, within the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters. The facility is located on State Route 0191, approximately one mile north of the S.R.0191/Newfoundland exit off I-84 in Sterling Township, Wayne County, Pennsylvania.
15. Upper Makefield Township D-2007-24 CP-1. An application for approval of a ground water withdrawal project to supply up to 8.43 mg/30 days of water to the applicant's public water supply distribution system from new Wells HH1, HH2, HH4, GTW1 and

GTW2. The project is located in the Brunswick and Lockatong formations in the Houghs Creek and Delaware River watersheds in Upper Makefield Township, Bucks County, Pennsylvania. The site is located 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. Upper Makefield Township D-2007-25 CP-1. An application for approval of the new 20,000 gpd Gray Tract WWTP. The WWTP will serve approximately 96 age-restricted dwellings and 14 existing homes and is proposed to discharge to an unnamed tributary of Hough's Creek, which is tributary to the Delaware River. The facility is located in Upper Makefield Township, Bucks 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.

Mr. Muszynski noted that the applicant had submitted comments on the draft docket for hearing item 16, requesting that this discharge be permitted to utilize two storage basins. DRBC has proposed restricting the discharge under certain rain events to only one of the two basins. The draft docket sets the trigger for use of the single basin at 0.5 inches over a 24-hour period. In addition, the docket holder is required to monitor quarterly for nitrate because if the Commission goes forward with Special Protection Waters designation and the applicant applies for expansion of this facility to 60,000 gpd, as is anticipated, the nitrate information will be needed to make the no measurable change determination. The applicant has asked that the monitoring requirement be removed, and staff are recommending that this request be denied. The applicant's facility did not exist at the time that water quality data were collected for purposes of establishing existing water quality (EWQ) as part of DRBC's Special Protection Waters program. Thus, when the docket holder applies for the 60,000 gpd expansion, it will be required to demonstrate that the expansion does not result in water quality changes. Staff have advised the applicant of its recommendations.

17. Congoleum Corporation D-2007-35-1. An application to discharge an average of 122,000 gallons per day of non-contact cooling and storm water from the applicant's tile floor manufacturing facility. The discharge is to a Hamilton Township municipal storm sewer, which discharges to Hamilton Ditch and Miry Run, tributaries to the Delaware River. The facility is located in Hamilton Township, Mercer County, New Jersey.
18. U.S. Silica – Port Elizabeth Mine D-2007-37-1. An application for approval of a surface water withdrawal project to supply up to 288 mg/30 days of water from surface water Intake No. 1 for sand and gravel processing and up to 0.778 mg/30 days from one well used for sanitary supply at the facility. The project is located in the Maurice River Watershed in Mauricetown Township, Cumberland County, New Jersey.
19. Franconia Sewer Authority D-2007-41 CP-1. An application for approval of the construction of a new 0.15 mgd Franconia Sewer Authority WWTP, pump station and appurtenances. The new WWTP will serve the new Souderton Area High School and sanitary waste from Smithfield Beef Group (formerly Moyer Packing Company). The WWTP will discharge to the Skippack Creek, a tributary to the Perkiomen Creek,

which is a tributary to the Schuylkill River. The facility will be located in Franconia Township, Montgomery County, Pennsylvania.

20. Pocono Manor Investors, L.P. D-2007-44-1. An application for approval of a surface water withdrawal project to supply up to 0.72 mg/30 days of water to the applicant's golf course irrigation system from Intake No. 1 and to limit the existing withdrawal from all intakes to 0.72 mg/30 days. The project is located on Indian Run, a tributary to Pocono Creek in Pocono Township, Monroe 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.

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

Richard McNutt of the Tidewaters Gateway Partnership asked whether monitoring for the golf course irrigation project (hearing item 20) would measure polluted runoff or simply constitute boundary point testing. He asked how it would be possible to know the source of the pollutants measured. Mr. Muszynski explained that the monitoring required for this particular course is primarily monitoring of groundwater wells to make certain there is no impact on neighboring wells. In contrast, he noted that surface water monitoring is being required for Valleybrook (item 12) to ensure the protection of minimum streamflow. In that instance, the operator is required to stop its surface water withdrawal whenever streamflow falls to a particular level. Where non-point source control plans are required, Mr. Muszynski said, they will consist primarily of best management practices to limit non-point source runoff. Each monitoring program is different. Mr. McNutt asked whether the Commission requires best management practices for all projects. Mr. Muszynski said that projects located within the drainage area of Special Protection Waters are required to submit a non-point source control plan that shows how best management practices will be employed to limit runoff. The goal is to have no increase in non-point source pollutant runoff from the post-development site. In areas outside of the drainage area of Special Protection Waters, the Commission has not used its authority to institute non-point source controls.

Ms. Buchanan asked whether the Pocono Manor golf course would be partially irrigated by treatment water. She said that monitoring of that golf course would then be especially imperative since the water would be diverted from a wastewater system. Mr. Muszynski said that before the water could be used for irrigation it had to meet stringent treatment limits. Ms. Buchanan asked if the runoff was also monitored. Mr. Muszynski said we don't necessarily monitor the runoff because that would be a combination of treated wastewater and other surface water. He explained that this project would have a BMP requirement with respect to use of fertilizers.

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

Mr. Muszynski presented the last two dockets that general counsel had earlier mentioned as appeals involving corrections.

21. Congoleum Corporation, D-2005-25-2. Approval is requested for corrections to the effluent table in section A.4.d. of Docket D-2005-25-1 issued on March 1, 2006 for an

industrial discharge of non-contact cooling water and stormwater from Congoleum Plant No. 2. The effluent table incorrectly listed limits for four parameters for which DRBC lacked applicable requirements: Bromodichlorormethane, Chloroform, Chlorine Produced Oxidants and Chronic Toxicity. The executive director subsequently issued corrected Docket D-2005-25-2, in which the state limits are listed for these parameters, pending ratification by the Commission. The discharge is made to the Hamilton Township storm sewer, which discharges to Pond Run, a tributary of the Assunpink Creek. The facility is located in Hamilton Township, Mercer County, New Jersey.

22. Borough of South Coatesville, D-74-39 CP-2. Approval is requested for corrections to the effluent table in section A.4.d. of Docket D-74-39-CP-2 issued on July 18, 2007 for the rerate of the South Coatesville Wastewater Treatment Plant. The effluent table incorrectly listed a Commission limit for Dissolved Oxygen that is inapplicable to the South Coatesville Borough facility. The executive director subsequently issued corrected Docket D-74-39 CP-2, in which the applicable state limit is listed for this parameter, pending ratification by the Commission. The facility is located on the border between South Coatesville Borough and Modena Borough in Chester County, Pennsylvania. The discharge is to the West Brandywine Creek.

Hearing no further comments or questions, Ms. Myers requested a motion for approval of the two corrected dockets – hearing items 21 and 22. Mr. Klotz so moved. Dr. Howarth seconded the motion and the two corrected dockets were approved by unanimous vote.

Resolution for the Minutes Authorizing the Executive Director to Engage an Engineering Firm to Oversee Lighting and HVAC Improvements to the Commission’s West Trenton Office Building. Mr. Gore reported that two projects had been discussed over the past several years for the Commission’s West Trenton office building. One consisted of a lighting retrofit and HVAC upgrade program. A firm was engaged to prepare the design plans and bid specifications for those projects. The plans and bid specifications for the lighting retrofit were completed, and the Commission knows the results of the bid for this component of the project. It is still awaiting completion of the bid specifications for the HVAC project and hopes to put that project out to bid by the end of the month. Because the firm the Commission engaged for these projects is closing its doors, it will not be possible to consider use of that firm for the construction phase. Staff at this time seeks authority for the executive director to engage a professional to assist with construction management. A notice has been issued to award the lighting contract, valued at about \$33,000. The HVAC project will cost in the area of \$500,000. Preliminary estimates as to the cost of construction management are in the area of \$33,000.

Hearing no other comments or questions, Ms. Myers requested a motion to adopt the resolution for the minutes authorizing the executive director to engage an engineering firm to oversee lighting and HVAC improvements to the Commission’s West Trenton office building. Dr. Howarth so moved, Mr. Klotz seconded the motion and the resolution for the minutes was approved by unanimous vote.

The complete text of the resolution follows:

RESOLUTION FOR THE MINUTES

A RESOLUTION authorizing the Executive Director to engage an engineering firm to oversee construction of the lighting retrofit project and replacement of the heating, ventilating, and air conditioning (HVAC) systems in the Commission's West Trenton office building.

WHEREAS, by resolutions in May of 2006 and May of 2007, the Commission authorized the Executive Director to enter into a professional services agreement with El Taller Colaborativo, P.C. (ETC) to perform tasks set forth in the Commission's October 2005 request for proposal (RFP), including the evaluation of existing mechanical and electrical systems at the Commission's 1970s-era office building in West Trenton, and identification and evaluation of alternatives for replacing these systems (May 2006); and the preparation of bid documents for the selected alternatives (May 2007); and

WHEREAS, the task of construction management was not included in the Commission's RFP or in the agreement with ETC; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that the Executive Director is authorized to engage a qualified professional firm to provide construction management for the Commission's lighting retrofit and HVAC replacement projects.

This RESOLUTION shall take effect immediately.

Resolution to Adopt the Commission's Annual Budget for the Fiscal Year Ending June 30, 2009 (July 1, 2008 through June 30, 2009). Mr. Gore reported that since the public hearing on the Commission's budget, which took place on December 12, 2007, the proposed resolution had been modified at the request of a member, by the addition of language in paragraph 6. The proposed General Fund budget for the period ending June 30, 2009 is in the aggregate amount of \$5,088,000. The proposed Capital Budget reflects revenues of \$3,456,300 and expenditures of \$2,576,000. The full fair share contribution to the Commission's operating expenses from all the signatories is assumed for Fiscal Year 2009 as follows: Delaware \$447,000; New Jersey \$893,000; New York \$626,000; Pennsylvania \$893,000; and the Federal Government \$715,000. Pennsylvania is expected to continue its Groundwater Protected Area program, for which revenues are included in the amount of \$239,000. A transfer from the Water Supply Storage Facilities Fund to the General Fund in the amount of \$810,000 is expected to offset General Fund expenditures associated with water supply. Other Income is anticipated in the amount of \$704,000. Mr. Gore noted that approval of the budget is subject to the budgetary processes of all the signatory parties. Paragraph 6 of the proposed resolution as modified appears as follows:

6. Should signatory party revenue fall below the budgeted amount, the Executive Director is authorized and directed to reevaluate the annual work plan and after consultation with and concurrence by the

Commission, to implement any or all actions deemed appropriate to maintain the financial stability of the General Fund. The Executive Director will notify the Commissioners in writing of any signatory party revenue shortfalls as soon as that information is made available and will implement the actions as close to the beginning of the fiscal year as possible.

Hearing no questions or comments Ms. Myers requested a motion for approval of the resolution to adopt the Commission's annual budget for the fiscal year ending June 30, 2009 (July 1, 2008 through June 30, 2009). Mr. Klotz moved adoption of the resolution; Dr. Miri seconded his motion, and a roll call vote was held as follows: Delaware – yes; New Jersey – yes; Pennsylvania – yes; New York – yes; and the Federal Government – yes. Resolution No. 2008-1 was approved by unanimous vote.

Add-On: Resolution to Extend the Term and Amount of the Commission's Agreement with Limno-Tech, Inc. for Professional Services in Connection with PCB Modeling. Dr. Fikslin explained that the proposed resolution would extend the Commission's agreement dating from 2002 with Limno-Tech, Inc. (LTI). The Commission engaged LTI at the conclusion of a competitive bid process after the Commission's expert panel on PCB modeling recommended that a consultant be hired to advise the staff and commissioners as they undertook the complex modeling. The agreement with LTI was previously renewed in accordance with Resolution No. 2004-5. Dr. Fikslin explained that a further extension is required at this time to support the modeling effort being undertaken in connection with the Stage 2 TMDL for PCBs in the Delaware Estuary. The proposed resolution would authorize the executive director to extend the agreement through December 31, 2008, at an additional cost of \$35,000. Of this sum, \$8,800 is available from an EPA grant and the balance is to be drawn from the Commission's General Fund.

Dr. Miri asked why this resolution was an "add-on" item, which did not allow the usual time for review by the members. He asked whether the work was taking longer than expected. Dr. Fikslin said there in addition to the project's complexity, a key modeler on staff had suffered serious health problems, delaying some of the tasks. He noted that until this time, no General Funds had been applied to this work. Rather, to date, the total cost of LTI services has been funded through a series of grants awarded by EPA, the State of Delaware and the Commonwealth of Pennsylvania.

Hearing no further comments or questions, Ms. Myers requested a motion for approval of the resolution to extend the term and amount of the Commission's agreement with Limno-Tech, Inc. for professional services in connection with PCB modeling. Lt. Col Baker so moved, Dr. Howarth seconded, and Resolution No. 2008-2 was approved by unanimous vote.

Public Dialogue. Richard McNutt, President of the Tidewaters Gateway Partnership explained that although his organization focuses primarily on the waters of the Delaware below Trenton, the group supports and encourages the DRBC to follow through aggressively with the Special Protection Waters (SPW) program to protect the Lower Delaware Scenic and Recreational River. He said that riparian law requires water flowing downstream to be treated in a responsible way, and SPW designation will protect downstream waters by ensuring higher quality contributions from upstream. He added that the Union of Concerned Scientists and other groups have predicted

a major collapse of fisheries by 2020 and that the fishing industry in the lower Delaware Bay is already in bad shape. He related that the New Jersey Department of Environmental Protection (NJDEP) had recently convened a meeting in the Village of Batsto in the Wharton State Forest, focused on a study of the Bay's red knots and horseshoe crabs. That two-year study concluded that New Jersey's restrictions on the use of horseshoe crabs as bait fish and limitations on beach access to protect the red knots were failing and should be terminated. Mr. McNutt said that in the course of two hours of testimony, water quality was not mentioned as a factor in the decline of the horseshoe crab, a species which has existed for more than 4,000 years. He urged the Commission to continue its efforts on behalf of cleaner water and to extend these downstream, where the matter is most urgent. Mr. McNutt said that if the fishing industry collapses, the economy will be affected as well. He urged that riparian law be used to support habitat restoration and preservation, noting that some of the programs of the DRBC are extremely critical. On behalf of the Tidewaters Gateway Partnership, he thanked the Commission for its efforts. He then asked the commissioners to move ahead without delay on the SPW rulemaking and upon its completion, to initiate a rulemaking that would extend the program downstream.

Lt. Col. Baker asked Mr. McNutt if he could provide the name of the NJDEP report on horseshoe crabs and red knots. Mr. McNutt elaborated on the interdependence of the birds and the crabs but did not furnish the title of the study. Ms. Myers asked if Mr. McNutt could elaborate on how riparian law might be used for habitat protection. Mr. McNutt said that his organization puts people on the water, and they are witnessing a decline in habitat and overall environmental quality. He explained that riparian law says that upstream water users have a responsibility for protecting downstream uses. The question, he said, is how much additional discharge becomes a violation of riparian law because of its adverse effects on water quality downstream. He said the economic impacts of water quality degradation were becoming apparent in a variety of ways, including the loss of fisheries, restrictions on eating fish because of mercury and other toxic contaminants that accumulate in the fish, and adverse health effects on populations – in particular poor Hispanic immigrants – who rely on fish as a primary source of food. He noted that Hispanics moving into the Bay area often don't speak English and can't read the posted signs that caution against eating fish caught in the Bay. Because this population is poor and speaks little English, and/ or because its members have no alternative, they are poisoning their children and may not even know it. Ms. Myers said that state fish consumption advisories are intended to alert people, but she acknowledged that it is difficult to reach the subsistence fishing population that exists in parts of the Estuary. Mr. McNutt said the Delaware River Basin Commission affords needed additional regulatory teeth. He said that by invoking riparian law, he and his organization are seeking to arm agencies with all available legal tools, included tools that have not been used in recent years.

Ms. Buchanan said that for thousands of years the indigenous cultures of the Basin states had been the guardians of the inter-connected life that exists in our waterways. She said her people have in perpetuity believed and continue to believe that clean water is the life blood of everything in existence. They began two years to plan a 162-mile kayak water trail to extend from Trenton to the ocean. Native American communities in the states of Pennsylvania and New Jersey will be trailblazers in undertaking this journey, which will involve participants from four countries. The groups intend to expand the project over three years to elevate consciousness about rivers and clean water issues around the world in twelve nations. She said the Special Protection Waters program, consisting of anti-degradation regulations, is an imperative beginning, although in the long term it will not be enough. In the estuary and bay the inter-

connected webs of life are still suffering. She described paddling into the salt marshes and observing the intricate woven nests of marsh birds, but seeing dead birds in these nests and eggs that never hatched. She also described watching every tide bring in hundreds upon hundreds of corpses of creatures killed by human negligence. She said these creatures were intimately connected to the indigenous peoples, making it imperative that her people speak out. She commended the 42,000 Native Americans who are voting citizens in Pennsylvania, the 47,000 Native Americans who are voting citizens in New Jersey and the Delaware River Basin Commission for supporting Special Protection Waters. She said they anticipate passage of the new regulation and its full implementation but also look forward to the day when degradation of the estuary and bay is reversed.

Carrie Martin of the Honor Journey said she used to conduct river clean-ups involving both the Pennsylvania and New Jersey sides of the river. The longest was a 40-mile effort undertaken with schools. She said she supported all efforts to give teeth to riparian law and to implement the Special Protection Waters program in the tidewaters area. She related that she traveled some years ago to Indonesia, where she had the experience of swimming in a clean ocean. When she returned to New Jersey, the dramatically degraded quality of the water was alarmingly apparent to her. She said the ocean along New Jersey's coasts seemed dead compared to what it used to be.

Tim Pryor, chair of the Greater Trenton Section of the American Society of Mechanical Engineers, said he represents 800 mechanical engineers in Bucks County, Burlington County and Mercer County. He said he spoke to the Commission in September regarding flood modeling and specifically requested that additional reservoir void volumes of greater than 10 percent and less than 40 percent be modeled by the National Weather Service. He said that as he watched the river rise over the last ten days he felt compelled to return and again request that the Commission ask NOAA to add these additional void simulations to the modeling they performed in August of 2007. Mr. Pryor said he knew that a more comprehensive model was being developed, but said it was his understanding that at least 12 more months would be required to complete that model. He asked whether there was any possibility of asking NOAA to run the additional simulations to obtain a better understanding of how voids would affect flood crests downstream so that he and his neighbors could better prepare.

Mr. Pryor added that there had been a great deal of discussion about the recent temporary closure of New York City's Delaware aqueduct. He asked the commissioners to explain what happens to the portion of the 800 mgd diverted via the aqueduct to power turbines during the summer that is not actually consumed by City residents. Mr. Klotz replied that no one was present from New York City to answer Mr. Pryor's question. He said that typically any water that is diverted via the aqueduct is used for consumption and not spilled from the terminal reservoir.

In response to Mr. Pryor's first question, Ms. Myers said that the Commission had not requested the additional modeling by NOAA because a hydrologic model capable producing accurate results is not yet available. She said this was demonstrated by the conflicting results people obtained depending upon which storm they used, which reservoirs they assumed to have voids, and what amount of rainfall they assumed. She pointed out that the results to date were not very illuminating and said the question the Commission seeks to answer is whether or not flood relief can be derived from operation of the existing reservoirs and how. She reassured Mr. Pryor that the Commission is absolutely pursuing that question. She said that as she understood it NOAA did not feel it appropriate to furnish a rough ballpark figure when its analysis could not be relied

upon. Dr. Miri said the Commission's Flood Analysis Model was supposed to be completed by the end of the year, with a milestone this summer. Mr. Muszynski said that the NOAA report he had seen included simulations for three void levels but for only two reservoirs. Mr. Pryor said NOAA had initially run simulations for 2%, 5% and 10% voids and later had added a simulation for a 40% void, each for the largest two reservoirs in the watershed. He said it might be possible to obtain the same peak reduction with a 30 percent void as with a 40% void, but with a change in the peak timing. It might be possible, he continued, to demonstrate benefits from a 20%, 15%, or 11% void without giving up as much water. Ms. Collier explained that the Commission had contracted with USGS, the Corps and the National Weather Service for a model that is due to be completed in January. She said there would be a status report on the model at either the July or the September Commission meeting. Mr. Pryor said these dates were a long way off and that implementation of the model, including analyses of alternative operating scenarios would take even longer. Ms. Myers said the last piece to be completed would be a user-friendly interface to allow others to run different scenarios. The hydrologic engineers would have a product they could use sooner. She said that unscientific answers were worse in this dialogue than no answers, and that because NOAA's first attempts were not deemed sufficiently reliable for operations planning, the agency would not likely be enthusiastic about providing more scenarios. Mr. Pryor said that NOAA's report states the model was validated based upon data from USGS and it is the only validated scientific model currently available.

Lt. Col. Baker offered to have Hank Gruber of the Corps take down Mr. Pryor's question and ascertain whether Corps staff could supply a response through the lab that is performing the model development work. Mr. Pryor thanked her.

Elaine Reichart of Aquatic Conservation Unlimited asked whether the Flood Analysis Model under development would use as inputs data generated by the OASIS Flow Model. Mr. Muszynski said that there would be no data going into the flood analysis model from OASIS. Rather, the model will take information from USGS stream gauges and National Weather Service reports and will predict what will happen if the reservoirs are operated in a certain way. He said that data from the Flood Analysis Model would be fed into OASIS to evaluate resulting drought conditions. Lt. Col. Baker offered to have Mr. Gruber take Ms. Reichart's question as well to the modeling team to obtain an official response.

Mary Ellen Noble of the Delaware River Keeper Network asked whether the addition of language to paragraph 6 of the budget resolution indicated that the Commission is anticipating a shortfall in signatory contributions. Ms. Myers said that most of the Basin states' FY09 budgets would not be established until later in the year and the outcomes remained uncertain. In addition, she noted that WRDA legislation now clearly authorizes federal funding for the Commission, but any appropriation has yet to be made. Although the states will look for a fair share contribution from the federal government, they have been expecting this for ten years and it has not been forthcoming. She said the Commission plans optimistically but needs to recognize the need to ask the executive director to identify what cannot get done if the money is not forthcoming. Ms. Collier said she was totally optimistic that all the Commission's members would be contributing 100 percent.

For the benefit of those who might not understand the way the U.S. Army Corps of Engineers is funded, Lt. Col. Baker said it is by specific appropriation, typically by project. She asked listeners to think of the DRBC as a stand-alone project for which the Corps lacks an

appropriation. She said her participation and that of her staff in Commission activities currently depends entirely upon departmental overhead funds. Coming up with \$750,000 a year is not something her small district can eke out of its overhead account. Thus, a stand-alone appropriation for the Commission is needed. Lt. Col. Baker said she spent the month of February visiting 18 members of Congress who represent districts within the Delaware Basin in all four states, and her sales pitch was virtually the same as Ms. Collier's. She tried to highlight the good work the Commission performs from year to year, the leadership, the coordination, the facilitation of issues, and the response to the public, and she tried to highlight specific initiatives coming up this year and next that depend upon the \$750,000 appropriation. Lt. Col. Baker said she believed her comments were well-received by every member with whom she spoke. She is nevertheless uncertain that a FY09 budget will be adopted given the year's political landscape. She said the efforts by Ms. Collier, the other river basin commissions, the Corps staff and herself continue to paint the Delaware River Basin Commission in a very positive way. She is not certain what more she can do.

Ms. Myers added that when she and the other commissioners are on the Hill they do the same. Ms. Myers said she had had the opportunity to work on Great Lakes matters and in that context had spoken with Assistant Secretary of the Army for Civil Works, John P. Woodley. Mr. Woodley well remembered his visit to the Delaware Basin in the past year and was impressed with the work being done and the community of interest here. Ms. Myers said he was genuinely pleased to see her and remembered their discussion about the need for restoration of the Commission's federal funding. Ms. Myers said she thinks it is a bad time to try to restore funding, but the commissioners are doing their best to ensure they have a chance at success. Ms. Noble asked whether she should speak with Clarke Rupert about sending letters of support. Ms. Collier urged her to do so.

Ms. Buchanan reported that she would be in Washington, D.C. that Saturday to meet with Clean Air attorneys from EPA and with Native American representatives. She said they would be speaking directly to the National Congress for the American Indian, a powerful lobby in Washington. She said she would be recommending funding for the DRBC through the National Congress for the American Indian.

Ms. Myers said that as Chair she wished to address an item not included on the day's agenda. She noted that as Decree Parties, Pennsylvania, New York, New Jersey, Delaware and the City of New York had put in place an interim Flexible Flow Management Plan that for the first time included flood mitigation provisions for day-to-day management of the New York City reservoirs. She acknowledged that these provisions are not enough—that they are interim provisions that the parties are working to improve upon in the course of the rulemaking process undertaken by DRBC. She acknowledged that there is a sense of urgency about identifying measures for improving storage and flow management, even as the parties are reviewing comments on the proposed rulemaking. She said the parties want to proceed with looking at all the issues confronting them so that they can improve flood mitigation, fisheries enhancement sustainable water supplies and instream flows. Accordingly, the decree parties want to get on with a comprehensive reassessment that is mentioned in the FFMP agreement and which they have been discussing. In addition to an adaptive management scheme for managing the basin reservoirs, she said, this reassessment study would look comprehensively at basin management and the New York City reservoir system in order to ensure water use is optimized. Although the FFMP rulemaking process is ongoing, then, the parties would like to proceed with an RFP for

some of the issues they wish to study further, such as what voids can be sustained in the reservoirs and what opportunities exist for integrated watershed management of all basin reservoirs. The commissioners are therefore authorizing the executive director to go forward with development of an RFP. Ms. Myers invited the other commissioners to add to or correct any statement she had made.

Mr. Klotz added that proceeding with the reassessment study makes a great deal of sense to New York at this time. He said it is important to keep the process moving forward by assembling the information required to make better decisions. Dr. Miri said that New Jersey concurred. Ms. Myers said the commissioners were asking DRBC to develop an RFP for them to consider that would begin to specifically frame the issues to be studied.

Ms. Reichart asked for clarification as to whether the reassessment study would address all of the watersheds that New York City currently relies upon for its water supply system. Ms. Myers said the study would be limited to Delaware Basin water resources. Information about the Hudson Basin or any other system that affects how the Delaware is managed would be included only to the extent that such information is needed to understand operational constraints in the Delaware Basin. Ms. Myers said New York has agreed to supply any information needed to assess how the Delaware Basin states can better manage their water resource, and the information required would be worked up as questions were framed for the RFP.

Mr. Skip Garlitz said that in his view it was obvious that by January the parties would conclude that although maintaining significant voids in New York City's reservoirs would have a favorable effect on flooding, it would not be the ultimate solution. Rather, in his view, the solution lies in the Delaware Water Gap National Recreation Area. He asked whether the commissioners would be looking at that as well and added that if they wanted a proposal, he would provide one. Ms. Myers said that any alternative proposals would certainly be considered. Mr. Garlitz said his proposal, unlike the FFMP, is not about the New York City reservoirs. Lt. Col. Baker said that during a discussion that morning about the reassessment study, the commissioners spoke about the importance of having check points, not just at the beginning of the study process, where the scope of the study is determined, but also during the course of the study to receive public comment, to make certain that the study is on the right path, and to make sure there is concurrence that the approach is sound, so that when a result is produced it does not meet with a wave of contention. She said that was the best answer the commissioners could give right now. Mr. Garlitz said he would proceed on the basis of what he had heard. Ms. Myers reiterated that the reassessment process would involve milestones and checkpoints and that there would be a public process including opportunities for additional questions and answers.

Hearing no further requests to comment, Ms. Myers asked for a motion to adjourn. Mr. Klotz so moved, Lt. Col. Baker offered a second, and the Commission's business meeting was adjourned at 3:50 p.m.

/s/ Pamela M. Bush
Pamela M. Bush, Esquire, Commission Secretary