

DELAWARE RIVER BASIN COMMISSION

MEETING OF DECEMBER 8, 2011

Minutes

The Commission met at the West Trenton Volunteer Fire Company in West Trenton, New Jersey.

Commissioners Present: Lieutenant Colonel Philip M. Secrist, United States, Chair
John T. Hines, Pennsylvania, Vice Chair
John Plonski, New Jersey, Second Vice Chair
Angus Eaton, New York
Kathleen M. Stiller, Delaware

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

Commission Chairman Lieutenant Colonel Philip M. Secrist convened the business meeting at 1:30 p.m. with introductions and the Pledge of Allegiance.

Minutes. The Minutes for the Commission Meeting of September 21, 2011 were approved unanimously on a motion by Mr. Plonski, seconded by Ms. Stiller.

Chairman Secrist acknowledged that in light of cancellation of the Commissioners' special meeting and vote on the natural gas regulations, which had been scheduled for November 21, 2011, many people were interested in the Commission's path forward. He explained that the Commissioners were taking further time to consider and discuss their concerns about the proposed regulations with their respective advisors and one another and would inform the public as soon as a new special meeting date was agreed upon.

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

- *DRBC Regulated Flow Advisory Committee Meeting.* Wednesday, January 18, 2012 at 10:00 a.m. in the Goddard Conference Room of the DRBC's West Trenton office building. Staff contact: Hernan Quinodoz, (609) 883-9500, extension 225.

- *DRBC Water Management Advisory Committee Meeting.* Tuesday, January 24, 2012 from 10:00 a.m. until 2:00 p.m. in the Goddard Conference Room. Staff contact: Donna Barnett, (609) 883-9500, extension 308.
- *DRBC Flood Advisory Committee Meeting.* Wednesday, February 29, 2012 at 10:00 a.m. in the Goddard Conference Room. Staff contact: Laura Tessieri, (609) 883-9500, extension 304.
- *DRBC Water Management Advisory Committee Meeting.* Tuesday, May 1, 2012 from 10:00 a.m. until 2:00 p.m. in the Goddard Conference Room. Staff contact: Donna Barnett, (609) 883-9500, extension 308.

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

The observed precipitation for the portion of the Basin above Montague, New Jersey for the period January 1 through December 6, 2011 was 66.29 inches or 25.72 inches above normal. The observed precipitation for the Basin above Trenton for the same period was 67.90 inches or 25.93 inches above normal and for the Basin above Wilmington, Delaware for this period, 52.28 inches or 12.21 inches above normal.

The average observed streamflow of the Delaware River at Montague in November 2011 was 7,466 cubic feet per second (cfs) or 172 percent of the long-term average for the month. For the same period, the average observed streamflow at Trenton was 18,990 cfs, or 182 percent of the long-term average for the month.

For the period of December 1 through December 6, the average observed streamflow at Montague was 11,153 cfs, or 227 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 26,667 cfs, or 236 percent of the long-term average for the month.

In the Lower Basin, as of December 7, 2011, Beltzville Reservoir contained 14.01 billion gallons (bg) usable, or 100.8 percent of usable storage, and Blue Marsh contained 4.38 bg usable, or 102.3 percent of winter pool usable storage. As of December 5, Merrill Creek contained 15.476 bg usable, or 98.6 percent of usable storage.

In the Upper Basin, as of December 7, 2011, Pepacton Reservoir contained 137.127 bg usable or 97.8 percent of usable storage. Cannonsville contained 86.193 bg usable, or 90.1 percent of usable storage. Neversink contained 33.794 bg usable or 96.7 percent of usable storage. The total New York City Delaware Basin reservoir storage was 257.114 bg usable or 94.9 percent of usable storage.

During the month of November 2011, 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) 57 to RM 68. The normal location of the salt line during November is RM 80, which is two miles upstream of the Delaware-Pennsylvania state line.

As of December 6, the salt line was located at RM 55. The normal location of the salt front during December is RM 74.

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

- *Delaware River Basin Commission 50th Anniversary.* DRBC held its 50th Anniversary event in combination with a celebration of the Delaware's selection as Pennsylvania's River of the Year. The event took place at the Shawnee Inn, which simultaneously celebrated its 100th Anniversary. The event included two panel discussions – one on the value of river basin commissions and one on the value of the river, both of which were well-received.
- *William Penn Foundation Grant.* The Commission was awarded a grant from the William Penn Foundation for \$75,000 to help develop information technology (IT) capabilities and perform digital mapping. The Commission's ongoing IT projects include, with the support New Jersey's office of IT (OIT), a new web site to be launched in January. Ms. Collier said the new site would be much easier to use than the current one.
- *DRBC Professional Accomplishments.* Ms. Collier congratulated Bob Damiani of the Water Resources Management Branch, who passed the very rigorous geologist's exam and is now a certified professional geologist.
- *Upper Delaware Council Executive Director Retires.* Bill Douglass, Executive Director of the Upper Delaware Council for 22 years, is retiring. Ms. Collier explained that as most of those present knew, the Council brings together the municipalities of the Upper Basin to jointly implement the Upper Delaware Scenic and Recreational River Management Plan. Ms. Collier acknowledged Bill Douglass's long service and said he would be missed.

General Counsel's Report. Mr. Warren reported on the three consolidated cases pending in the Eastern District of New York, which challenge the Commission's draft Natural Gas Development Regulations on the grounds that National Environmental Policy Act (NEPA) compliance is allegedly required. In November, the New York State Attorney General filed an amended complaint naming the DRBC and the Executive Director in her official capacity as defendants. Mr. Warren said the parties will meet with the judge on December 13 and plan to file motions to dismiss in that case. Two cases also are pending in the District of New Jersey, and plaintiffs in those matters have filed amended complaints, with responses most likely due in January.

Mr. Warren noted for the record that he was recusing himself from Docket Item No. 15 (Upper Gwynedd-Towamencin Municipal Authority, D-2002-029 CP-2).

Mr. Warren next took up an item that had been deferred from previous Commission meetings – the request of Commissioner Martens of the New York State Department of Environmental Conservation (NYSDEC) that the DRBC not consider certain withdrawal dockets in the State of

New York involving high-volume hydro-fracking. Mr. Warren yielded the floor to Mr. Eaton of New York for a motion. Mr. Eaton moved that the Commission adopt a resolution embracing Commissioner Martens' request. Mr. Plonski offered a second.

Ms. Bush read the "Be it resolved" portion of the resolution, which provides, using the language that Commissioner Martens used in his letter:

- (1) Until the State of New York notifies the Commission that the State has completed its environmental impact review process with respect to potential adverse impacts associated with high volume hydraulic fracturing for natural gas development, the Delaware River Basin Commission will postpone consideration of applications for the approval of water withdrawals within the State of New York to serve 'high volume hydraulic fracturing' as New York State defines that term[; and]
- (2) As to such proposed withdrawals, this Resolution supersedes the third element of the Commission's Resolution of May 5, 2010 [which provided that the Commission would move forward with water withdrawal dockets throughout the basin in due course].

Hearing no questions or comments from the Commissioners, Chairman Lieutenant Colonel Secrist requested a vote and the motion was unanimously approved.

The complete text of the resolution follows:

RESOLUTION FOR THE MINUTES

A RESOLUTION FOR THE MINUTES to postpone the Commission's consideration of applications for water withdrawals within the State of New York to serve natural gas development activities, pending completion of New York's environmental quality review process.

WHEREAS, on May 5, 2010, the Commission unanimously approved a resolution "(1) direct[ing] staff to develop draft regulations on well pads in the shales for notice and comment rulemaking; (2) "postpon[ing] the Commission's consideration of well pad dockets until regulations are adopted [by the Commission]; and (3) [providing that the Commission] will move forward with water withdrawal dockets in due course"; and

WHEREAS, the Commission has received three applications, as follows, for water withdrawals located in the State of New York to serve natural gas development activities at sites both within and outside the Delaware River Basin:

- (1) an application by F.E. Kamp, Inc. for approval of a groundwater withdrawal project in the Town of Deposit, New York to serve natural gas development activities both within and outside the Delaware River Basin;

- (2) an application by XTO Energy, Inc. (“XTO”) for approval of a surface water withdrawal project to supply water from Oquaga Creek in Sanford, New York to support its natural gas exploration and production activities within the State of New York; and
- (3) an application by the Village of Deposit, New York for the renewal of an existing groundwater withdrawal project within the Village, including modification of the Village’s approved service area, in order to authorize service for natural gas development activities; and

WHEREAS, by letter dated May 31, 2011, Commissioner Joseph Martens of the New York State Department of Environmental Conservation (NYSDEC) requested “that all Delaware River Basin Commission water withdrawal applications within New York that are associated with high-volume hydraulic fracturing be postponed until completion of the New York environmental impact review process”; and

WHEREAS, the Commission developed its draft natural gas development regulations and draft project approvals to be consistent with its practice of allowing each Basin state to adopt and/or impose regulations, conditions or approvals applicable to activities within its borders that are more stringent than the Commission’s, and it remains the intent of the Commission to allow each Basin state to do so; and

WHEREAS, the Commission intends to continue its practice of including in Commission natural gas dockets and other approvals a provision requiring the project sponsor to secure all necessary permits and approvals from state, federal and local agencies; and

WHEREAS, until New York State completes its ongoing environmental review process, uncertainty remains as to the requirements that New York State will impose on natural gas development activities within its borders; and

WHEREAS, accordingly, the Commission will grant NYSDEC Commissioner Martens’s request; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission that:

1. Until the State of New York notifies the Commission that the State has completed its environmental impact review process with respect to potential adverse impacts associated with high volume hydraulic fracturing for natural gas development, the Delaware River Basin Commission will postpone consideration of applications for the approval of water withdrawals within the State of New York to serve “high volume hydraulic fracturing” as New York State defines that term.
2. As to such proposed withdrawals, this Resolution supersedes the third element of the Commission’s Resolution of May 5, 2010 cited above.

Public Hearing: Project Review Applications. Mr. Muszynski of DRBC presented for the Commissioners’ consideration 22 dockets in three groups: Category A, consisting of docket renewals involving no substantial changes (hearing items 1 through 4); Category B, consisting of

renewals involving significant changes, such as an increase or decrease in an authorized withdrawal or discharge (hearing items 5 through 15); and Category C, consisting of projects not previously reviewed by the Commission (hearing items 16 through 22). Mr. Muszynski noted that all the dockets that met the water auditing requirements would now contain a condition requiring that reports must be submitted by March 31, 2012, since it is now mandatory for those audits to be completed.

A. *Renewals with No Substantive Changes (hearing items 1 through 4).* The Commission received no comments on these projects.

1. Millville City, D-1968-082 CP-2. An application to renew the approval of an existing discharge of up to 5.0 million gallons per day (mgd) from the Millville Wastewater Treatment Plant (WWTP). The WWTP will continue to discharge to Water Quality Zone 6 at River Mile 21.03 - 22.0 (Delaware River - Maurice River) in the City of Millville, Cumberland County, New Jersey.
2. North Wales Water Authority, D-1990-006 CP-3. An application to renew the approval of an existing groundwater withdrawal (GWD) of up to 195 million gallons per month (mgm) of groundwater from existing Wells Nos. 1, 4, 8, 9, 10, 11, 14, 17, 21, 22, 25, 31 and 34; and to receive up to 15.88 mgd or 492.28 mgm of potable water via an interconnection with the Forest Park Water Treatment Plant. The North Wales Water Authority serves customers in the Borough of North Wales and portions of Upper Gwynedd, Lower Gwynedd, Whitpain, Upper Dublin, Horsham and Montgomery Townships in Montgomery County; and in New Britain, Warminster, Warrington, and Doylestown Townships in Bucks County. The wells are completed in the Stockton, Brunswick and Lockatong formations. The project is located within the Southeastern Pennsylvania Groundwater Protected Area in the Neshaminy, Wissahickon and Stony Creek watersheds in Whitpain, Lower Gwynedd, Montgomery, Upper Gwynedd and Upper Dublin Townships in Montgomery County, Pennsylvania.
3. Pennsylvania American Water Company, D-1991-014-3. An application to renew the approval of an existing discharge of up to 0.1833 mgd from the Blue Mountain Lake WWTP. The WWTP will continue to discharge treated effluent to Sambo Creek, a tributary of Brodhead Creek, within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Stroud Township, Monroe County, Pennsylvania.
4. Nipro Glass Americas Corporation, D-2006-030-2. An application to renew the approval of an existing discharge of up to 0.0845 mgd of contact cooling water and non-contact cooling water via Outfall No. DSN005A at the Amcor Pharmaceutical Packaging USA, Inc. (Amcor) Plant No. 3 manufacturing facility. The facility will continue to discharge to Water Quality Zone 6 at River Mile 18.5 – 22.3 – 2.6 (Delaware River – Maurice River – Petticoat Stream), in Millville City, Cumberland County, New Jersey.

Mr. Muszynski recommended that the Commissioners approve hearing items 1 through 4, consisting of docket renewals without substantive changes. Upon a request by the Chair, Ms.

Stiller so moved, Mr. Plonski seconded her motion, and hearing items 1 through 4 were approved by unanimous vote.

B. Renewals with Substantive Changes (hearing items 5 through 15). Mr. Muszynski presented the next category of dockets consisting of renewals involving significant changes.

5. South Coatesville Borough, D-1974-039 CP-4. An application to renew the approval of an existing discharge of up to 0.381 mgd as an annual average flow from the South Coatesville Borough WWTP. The applicant does not propose any modifications to the existing WWTP, which will remain at a hydraulic design capacity of 0.5 mgd. The WWTP will continue to discharge to the West Branch Brandywine Creek, which is a tributary of the Brandywine Creek, which flows into the Christina River, at River Mile 70.7 – 1.5 – 20.0 – 14.3 in the Borough of South Coatesville, Chester County, Pennsylvania.
6. Fleetwood Borough Authority, D-1987-054 CP-4. An application to renew the approval of an existing discharge of up to 0.7 mgd from the 0.882 Fleetwood Borough WWTP and to replace the chlorine disinfection system with ultraviolet light treatment. The WWTP will continue to discharge treated effluent to Willow Creek at River Mile 92.47 – 86.7 – 0.6 – 6.4 (Delaware River – Schuylkill River – Maiden Creek – Willow Creek), in Richmond Township, Berks County, Pennsylvania.
7. PSEG Nuclear, LLC, D-1987-070-2. An application to construct a new WWTP at the PSEG Hope Creek Generating Station (HCGS). The new WWTP will serve the domestic sanitary needs of the PSEG facility. The project consists of replacing the existing 0.14 mgd (hydraulic design) WWTP with a new WWTP, hydraulically designed for 0.05 mgd. The WWTP discharge of treated effluent will continue to be combined with the HCGS cooling tower backwash prior to discharge to Delaware River Water Quality Zone 5, in Lower Alloways Creek Township, Salem County, New Jersey.
8. Rohm & Haas Company, LLC, D-1989-002-2. An application to renew the approval of an existing discharge of up to 2.841 mgd from the Rohm & Haas industrial wastewater treatment plant (IWTP) via Outfalls Nos. 001, 003, 008, and 009. The project will continue to discharge to Delaware River Water Quality Zone 2 at River Mile 117.0 - 0.1 (Delaware River - Hog Run Creek) in Bristol Township, Bucks County, Pennsylvania.
9. Logan Township Municipal Utilities Authority, D-1995-007 CP-3. An application to renew the approval of an existing discharge from the Logan Township WWTP and to approve an expansion from 2.0 mgd to 2.75 mgd. The WWTP expansion was previously approved by the DRBC via Docket No. D-1996-007 CP-2 on May 10, 2006; however, the docket holder submitted a docket renewal application after the expiration date of the docket (October 31, 2010). The expansion includes upgrading the entire facility to a Membrane Bio-reactor process along with appurtenant facilities. The WWTP will continue to discharge to Delaware River Estuary Water Quality Zone 4 at River Mile 79.0 in Logan Township, Gloucester County, New Jersey.

10. West Grove Borough, D-1996-026 CP-2. An application to renew the approval of an existing groundwater withdrawal (GWD) of up to 11.16 mgm to supply the applicant's public water supply from existing Wells Nos. 3, 4 and 7 completed in the Cockeysville Marble and Wissahickon formations. The requested allocation is not an increase from the previous allocation. The project is located in the Middle Branch White Clay Creek Watershed in West Grove Borough, Chester County, Pennsylvania.
11. Upper Moreland-Hatboro Joint Sewer Authority, D-1998-048 CP-2. An application to renew the approval of an existing discharge from the Upper Moreland-Hatboro Joint Sewer Authority WWTP and to increase the WWTP's average annual daily flow rate from 7.173 mgd to 7.189 mgd. The WWTP's existing hydraulic design flow rate of 9.08 mgd will remain unchanged. The WWTP will continue to discharge to Pennypack Creek at River Mile 109.75 – 17.80 (Delaware River – Pennypack Creek), in Upper Moreland Township, Montgomery County, Pennsylvania.
12. Nestlé Waters North America, Inc., D-1998-055-5. An application for approval of a modification of a GWD to transfer 25 gpm or 1.12 million gallons per month (mgm) of the allocation associated with borehole B-2 to the allocation for borehole B-1. The new allocations for boreholes B-1 and B-2 will be 13.21 mgm and 3.84 mgm, respectively. The total groundwater withdrawal allocation from boreholes B-1 and B-2 will remain at 17.05 mgm. The water is used for the docket holder's bottled water facility. The boreholes are completed in the Martinsburg Formation and in the weathered unconsolidated sediments overlying the Martinsburg Formation. The site is located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in the Waltz Creek Watershed in Washington Township, Northampton County, Pennsylvania.
13. Warrington Township, D-1999-012 CP-2. An application to renew the approval of an existing discharge of up to 0.75 mgd from the Tradesville WWTP and to approve modifications to the WWTP without increasing the hydraulic capacity of the facility. The WWTP will continue to discharge to Mill Creek at River Mile 115.63 - 36.4 - 1.5 (Delaware River - Neshaminy Creek - Mill Creek), in Warrington Township, Bucks County, Pennsylvania.
14. TPT Partners, L.P., D-1999-041-2. An application to renew the approval of an existing GWD of up to 6.20 mgm to supply the applicant's Bellewood golf course from existing Wells Nos. PW-1 and PW-2 in the Brunswick Formation. The requested allocation is not an increase from the previous allocation. The wells are located within the Commission's Southeastern Pennsylvania Groundwater Protected Area in the Schuylkill-Sprogels Watershed in North Coventry Township, Chester County, Pennsylvania.
15. Upper Gwynedd-Towamencin Municipal Authority, D-2002-029 CP-2. An application for approval of an existing discharge from the Upper Gwynedd Towamencin Municipal Authority WWTP. The WWTP is hydraulically designed to treat up to 7.3 mgd; however, the facility is permitted by PADEP to treat an annual average flow of 6.5 mgd.

The project received its last Commission approval by Docket No. D-2002-029 CP-1 on March 3, 2004; however, the docket holder submitted a docket renewal application after the docket expiration date of December 31, 2008. The applicant proposes neither an increase in flow nor any modifications to the existing WWTP. The WWTP will continue to discharge to the Towamencin Creek, a tributary of the Skippack Creek, which is a tributary of the Perkiomen Creek, which drains to the Schuylkill River, at River Mile 92.47 – 32.3 – 3.0 – 7.6 – 1.4 (Delaware River – Schuylkill River – Perkiomen Creek – Skippack Creek – Towamencin Creek). The project is located in Towamencin Township, Montgomery County, Pennsylvania.

Mr. Muszynski recommended that the Commission approve the eleven dockets consisting of renewals involving substantive changes. On a motion by Mr. Eaton, seconded by Mr. Plonski, hearing items 5 through 15 were approved by unanimous vote.

C. *New Projects (hearing items 16 through 22).* These seven projects comprised new discharges or withdrawals or constituted projects new to the Commission.

16. Upper Saucon Township, D-2000-051 CP-3. An application for approval of a new GWD of up to 17.86 mgm to supply the applicant's existing public water supply system from existing Wells Nos. CC-1, CC-2, the Mine Shaft Well, and the new Gun Club Well. The total system allocation will remain at 33.232 mgm. The project wells are completed in the Quartz Fanglomerate and Beekmantown formations, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Upper Saucon Township, Lehigh County, Pennsylvania.

17. Beverly Sewerage Authority, D-2010-017 CP-1. An application for approval of an existing discharge of up to 1.0 mgd from the Beverly Sewerage Authority WWTP and proposed modifications to the outfall, including welding a face plate to the existing effluent diffuser, reducing the diffuser port area from 0.3048 meters or 12 inches to 0.215 meters on each of the two ports. The WWTP will continue to discharge to Water Quality Zone 2 at River Mile 114.7 (Delaware River) in the City of Beverly, Burlington County, New Jersey.

18. Department of the Navy, D-2010-038 CP-1. An application for approval of an existing discharge of up to 0.187 mgd from the Department of the Navy NAVFAC Mid-Atlantic Warminster groundwater treatment plant. The groundwater treatment system treats an average annual flow of 187,000 gallons per day of contaminated groundwater from 29 on-site wells. The GWTP will continue to discharge to an unnamed tributary of the Little Neshaminy Creek, a tributary of the Neshaminy Creek at River Mile 115.6 – 23.6 – 3.3 – 1.4 (Delaware River – Neshaminy Creek – Little Neshaminy Creek – UNT to Little Neshaminy Creek) in Warminster Township, Bucks County, Pennsylvania.

19. Delaware-Chenango-Madison-Otsego BOCES, D-2011-005 CP-1. An application for approval of the existing discharge of up to 0.01 mgd from the Delaware-Chenango-Madison-Otsego BOCES (DCMO BOCES), Robert W. Harrold Campus (RWHC)

WWTP. Outfall No. 001 will continue to discharge to Trout Creek, which is located above the Cannonsville Reservoir at River Mile 330.71 - 11.76 - 9.75 - 4.83 (Delaware River - West Branch Delaware River - Cannonsville Reservoir - Trout Creek) in the Town of Masonville, Delaware County, New York, within the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters.

20. Lost Lake Resort, Inc., D-2011-007 CP-1. An application for the approval of five existing groundwater wells (Wells Nos. O, HH, FFF, JJJ, and TW5) to supply the proposed public water supply system and golf course associated with the Lost Lake Resort development, with a maximum monthly demand of up to 19.84 million gallons. Well No. TW5 is to be used for irrigation only. The wells are completed in the Devonian-Lower Walton Formation in the Neversink River Watershed, within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in the Town of Forestburgh, Sullivan County, New York.
21. Lost Lake Resort, Inc., D-2011-008 CP-1. An application for approval to construct a new 0.135 mgd WWTP to service the Lost Lake Resort development. The proposed discharge would be to the Bush Kill near River Mile 253.64 – 14.52 – 5.35 (Delaware River – Neversink River – Bush Kill) within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in the Town of Forestburgh, Sullivan County, New York.
22. Town of Tompkins, D-2011-010 CP-1. An application for approval to construct the new 0.016 mgd Hamlet of Trout Creek wastewater treatment facilities (WWTF). The proposed WWTF will discharge to groundwater through the use of a community septic tank system and absorption beds near River Mile 330.71 – 11.76 – 9.75 – 3.5 (Delaware River – West Branch Delaware River – Cannonsville Reservoir – Trout Creek) within the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters, in the Town of Tompkins, Delaware County, New York.

Mr. Muszynski recommended that the Commissioners approve hearing items 16 through 22, consisting of new projects and projects not previously reviewed by the Commission. Upon a request by the Chair, Mr. Eaton so moved, Ms. Stiller seconded his motion, and hearing items 16 through 22 were approved by unanimous vote.

Public Hearing: Resolution Extending Docket No. D-69-210 CP Final (Revision 12) for the Exelon Limerick Generating Station Water Supply Modification Demonstration Project and Wadesville Mine Pool Withdrawal and Streamflow Augmentation Demonstration Project. Mr. Muszynski explained that the Exelon Limerick Generating Station (LGS) withdraws water from and discharges to the Schuylkill River. LGS currently operates under DRBC Docket No. D-69-210 CP Final (Revision 12), which will expire on December 31, 2011. Staff has nearly completed a new draft approval for this facility and recommends that the Commissioners extend Exelon's current docket for one more year for two reasons: (1) the draft docket could not be

completed as quickly as originally thought; and (2) the project currently is operating as a demonstration project and all indications to date are that the demonstration has been very successful. Accordingly, staff recommends that the project be continued as the job of consolidating the facility's prior dockets into a single approval is completed. Currently, Mr. Muszynski explained, in order to know all the operating conditions that the Commission has placed on LGS, it is necessary to read and analyze all twelve dockets. DRBC is consolidating these and attaching an operating plan. Staff has committed to holding a public hearing on the draft docket in Pottstown, Pennsylvania and to providing 60 days before the hearing and 60 days after it for the public to study and comment on the draft before taking action. Assuming the current docket is extended until December 31, 2012 and that a new docket is approved during the course of 2012, Exelon has asked that it be permitted to operate under the existing docket through the end of the year and that the new docket have an effective date of January 1, 2013.

Mr. Muszynski asked that the Commissioners approve the resolution to extend the current demonstration project as amended by them in minor ways in May of 2011.

Hearing no further comments or questions, Lieutenant Colonel Secrist requested a motion to approve the resolution extending Docket No. D-69-210 CP Final (Revision 12) for the Exelon Limerick Generating Station Water Supply Modification Demonstration Project and Wadesville Mine Pool Withdrawal and Streamflow Augmentation Demonstration Project. Mr. Hines so moved, Ms. Stiller seconded his motion, and Resolution No. 2011-12 was adopted by unanimous vote.

Public Hearing: Resolution Extending the Term of the Water Supply Contract Between the Delaware River Basin Commission and the Western Berks Water Authority for Water Supply from Blue Marsh Reservoir and Tulpehocken Creek. Mr. Muszynski explained that the proposed resolution extends the term of a water supply contract between the Commission and Western Berks Water Authority (WBWA) for water supply from the Blue Marsh Reservoir and Tulpehocken Creek. The Commission has had a contract with the WBWA since December 22, 1971. It is one of the few contracts that the Commission has approved in addition to a docket. The contract was set up because in conjunction with taking water from Blue Marsh Reservoir, a project was constructed consisting of a pipe and a gate-type system that could be used to take water directly from the reservoir rather than from the creek. DRBC contracted with the U.S. Army Corps of Engineers to install the system, and the contract provides the terms under which the Commission was to be repaid, including amortization and operation, maintenance and replacement costs. Essentially the Commission receives about \$21,000 per year in amortization plus another \$3,100 to cover operation, maintenance and replacement costs. The contract was put into place before the reservoir was constructed, so the payments did not begin until later. Consequently, there is a gap between expiration of the contract and the time of the final payment. Staff is recommending that the Commissioners extend the current contract for one more year, in order to give the parties time to resolve issues associated with the both contract renewal and the docket. These include the fact that the allocation is referenced in but not established by the current docket and that Pennsylvania's permit for this facility provides that if the contract is not renewed before it expires, then the Pennsylvania permit also will expire. Renewing the contract for one year will allow staff to put in place a revised contract that includes the remaining eight

years of amortization payments owed to the Commission. WBWA has indicated that it is willing to extend the agreement for one year, through December 22, 2012.

Hearing no questions or comments, Lieutenant Colonel Secrist requested a motion to approve the resolution extending the term of the water supply contract between the Delaware River Basin Commission and the Western Berks Water Authority for water supply from Blue Marsh Reservoir and Tulpehocken Creek. Mr. Hines so moved, Mr. Plonski seconded his motion, and Resolution No. 2011-13 was approved by unanimous vote.

Public Dialogue Session. Lieutenant Colonel Secrist explained that comments offered during the public dialogue session were not part of a public hearing and would not be included in any decision-making record. Twelve individuals had preregistered to speak and were given three minutes each to offer testimony, primarily on the subject of natural gas drilling. A recording of their comments is on file with the Commission Secretary. Like all public records of the Commission, this recording is available for inspection by appointment.

Lieutenant Colonel Secrist requested a motion to adjourn the meeting. Mr. Plonski so moved, Ms. Stiller seconded his motion, and the Commission Meeting of December 8, 2011 was adjourned at 3:10 p.m..

/s/ Pamela M. Bush

Pamela M. Bush, Esquire
Commission Secretary