



**June 15, 2022 Minutes of the Meeting
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.
DATE: June 15, 2022
PLACE: Prallsville Mills, Stockton, New Jersey

ATTENDING COMMISSIONERS:

Vice-Chairman Bruce Stout; Robin Madden, designee for Commissioner of Environmental Protection Shawn LaTourette; Commissioner Phil Lubitz; Commissioner Douglas Palmer; Commissioner Chris Shoffner; and Commissioner John Reiser participated via online platform and teleconference.

STAFF: Executive Director John Hutchison was present in the Commission conference room; Commission Engineer Joseph Ruggeri, Communications Director Darlene Yuhas, Executive Assistant Erica Vavrence, and Deputy Attorney General Jason Kane participated via online platform.

GUESTS: Bob Barth, D&R Canal Watch; Robert von Zumbusch, Delaware and Raritan Canal Commission Master Plan Advisory Committee; Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Wayne Petko; Michael Dunn; Christopher DeGrezia; Walter Hopkin; Sandra Blick, New Jersey Department of Transportation (NJDOT); John P. Mikusa, NJDOT; Richard Mongelli; Alexandra Horn; Laurie McHugh; Sharon Coe, NJDOT; Craig Hanlon; Michael Butler; Thomas P. O'Shea, Van Note-Harvey Associates, Inc.; Donald Locke, NJDOT; Brian Perry, Van Note-Harvey Associates, Inc.; Rikki Massand; Chris Lovett; Kristen Appleget, Director of Community and Regional Affairs, Princeton University.

Since Commission members were participating via telephonic device pursuant to Article III, Section 4 of the Commission Bylaws, Vice-Chairman Stout directed the Executive Director to call the roll:

Vice-Chairman Stout	Present
Commissioner Designee Madden	Present
Commissioner Reiser	Present
Commissioner Lubitz	Present
Commissioner Shoffner	Present

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Commissioner Palmer

Present

Director Hutchison stated that a quorum was present.

Vice-Chairman Stout announced that this was a monthly meeting of the Delaware and Raritan Canal Commission and that the provisions of the “Senator Byron Baer Open Public Meetings Act” (OPMA) had been complied with in the scheduling of the meeting.

Vice-Chairman Stout announced that the meeting was being taped pursuant to the exception set forth at Section C.(1) of DEP Policy & Procedure 2.85 “Prohibition of Recording in the Workplace” Policy adopted on September 18, 2019.

Administrative Items

Confirmation of July 20, 2022, Meeting Date

Vice-Chairman Stout stated that the next Commission meeting would be held on July 20, 2022. Commissioner Lubitz indicated that he would not be able to attend.

Minutes

Vice-Chairman Stout inquired if the Commissioners wished to offer comments or corrections on the May 18, 2022, meeting minutes. Hearing none, the Vice-Chairman called for a motion to approve the minutes. Commissioner Shoffner made a motion to approve the minutes, which was seconded by Commissioner Reiser. Vice-Chairman Stout directed Director Hutchison to call the roll:

Vice-Chairman Stout	Abstain
Commissioner Designee Madden	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Yes
Commissioner Palmer	Yes

The minutes were approved.

Review Zone Actions

Zone A Projects

22-0117B	80 Lambert Lane -- Cannabis Dispensary Painted Façade Sign (Lambertville City)
22-4009C	204 North Union Street -- Cannabis Dispensary (Lambertville City)
22-5840	NJDOT Route 29 Drainage Improvements -- Cass Street to Calhoun Street (Trenton City)

Vice-Chairman Stout asked the Commissioners if they required any of the Zone A projects to be voted upon individually. Commissioner Lubitz stated he wished to consider #22-5840 NJDOT Route 29 Drainage Improvements -- Cass Street to Calhoun Street separate from the other Zone A projects.

Vice-Chairman Stout requested a motion to approve the remaining two Zone A projects, namely #22-

0117B 80 Lambert Lane -- Cannabis Dispensary Painted Façade Sign, and #22-4009C 204 North Union Street -- Cannabis Dispensary. Commissioner Lubitz moved that the Commission approve the two projects, which motion was seconded by Commissioner Reiser. Vice-Chairman Stout asked whether there were any comments on the two projects from the Commissioners or the public. Hearing none, he asked Director Hutchison to call the roll:

Vice-Chairman Stout	Yes
Commissioner Designee Madden	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Yes
Commissioner Palmer	Yes

The motion was approved.

Vice-Chairman Stout asked if a Commissioner would offer a motion on #22-5840 NJDOT Route 29 Drainage Improvements -- Cass Street to Calhoun Street for the purposes of opening a discussion on the project. Commissioner Palmer made a motion to approve the project, which was seconded by Commissioner Reiser. Vice-Chairman Stout asked for comments from the Commissioners.

Commissioner Lubitz stated that he agreed that the applicant had made a satisfactory demonstration of a “compelling public need” under the criteria in the Commission’s regulations. He asked Ms. Blick of the NJDOT to describe the search NJDOT had conducted to find suitable offsite locations for specific compensatory measures to mitigate for the project’s adverse stormwater impacts. Ms. Blick stated that the NJDOT did not perform a search, since the stormwater impacts from the project were addressed on a project-wide basis, and that the stormwater discharge would occur outside of the Commission Review Zone. Accordingly, the NJDOT concluded that there would be no adverse impact upon the Delaware and Raritan Canal.

Commissioner Lubitz observed he had difficulty with NJDOT interpreting the Commission regulations and making findings that were in conflict with those of the Commission’s professional engineering staff, which had requested the NJDOT to consider stormwater quantity reductions offsite, or oversizing of an existing or proposed stormwater quantity best management practice (BMP) measure at another NJDOT project location somewhere within the watershed or at a nearby watershed within the Commission Review Zone. Since NJDOT did not consider these recommendations, he found Ms. Blick’s answer to his question to be unsatisfactory.

Commissioner Lubitz proposed to amend the motion to approve the project and condition the approval upon NJDOT undertaking stormwater quantity reductions offsite, consisting of removal of existing NJDOT pavement or other pavement within the watershed or at a nearby watershed within the Commission Review Zone, or the oversizing of an existing or proposed stormwater quantity BMP measure at another NJDOT project location within the watershed or at a nearby watershed within the Commission Review Zone. Commissioner Lubitz stated the amended motion satisfied the Commission’s regulatory requirements and provided NJDOT with a vast range of potential sites to serve as offsite mitigation for the adverse stormwater impacts of the project. To permit the project to proceed in an

expeditious manner, Commissioner Lubitz further proposed that the choice of the proposed NJDOT stormwater quantity mitigation measures be approved by the Executive Director of the Commission, rather than having the department submit them as a separate project application.

Commission Designee Madden asked Ms. Blick if the project had obtained any required permits from the various affected program elements of the Department of Environmental Protection (DEP). Ms. Blick confirmed that all DEP permitting activities were complete.

Vice-Chairman Stout asked for further comments on the project from the public. Mr. von Zumbusch stated that he supported Commissioner Lubitz's proposed amendment to the motion.

Vice-Chairman Stout asked Commissioner Palmer if he would agree to the amendment to the motion proposed by Commissioner Lubitz. Commissioner Palmer stated his agreement to the amended motion language. Commissioner Reiser, who seconded the initial motion, stated he supported the amended motion as well.

Vice-Chairman Stout asked Ms. Blick if she had any response to the proposed amended motion. Ms. Blick asked if there would be a specific timeframe in which the stormwater mitigation would be required. Commissioner Lubitz stated that the condition would need to be satisfied prior to the start of the project. Ms. Blick stated NJDOT did not object to the time frame.

To confirm the language of the conditions, Director Hutchison recited the amended motion: The NJDOT shall remove or convert to pervious pavement an existing parking area within the project watershed or a nearby watershed, or in the alternative, overtreat a stormwater management facility for quantity and recharge in the amount equal to the discharge from the project within the Commission Review Zone, which shall be conducted to the satisfaction of the Executive Director, and prior to beginning the project.

Vice-Chairman Stout asked the Executive Director to call the roll:

Vice-Chairman Stout	Yes
Commissioner Designee Madden	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Yes
Commissioner Palmer	Yes

The motion was approved.

Zone B Projects

21-2436KK	311 Pennington Rocky Hill Road -- BeiGene Building Complex (Hopewell Township)
22-2441QQ	Princeton University -- Dillon Gymnasium Expansion (Municipality of Princeton)
22-2441RR	Princeton University -- Health Services Building (Municipality of Princeton)
22-2441SS	Princeton University -- First College Demolition-Hobson College Enabling Work (Municipality of Princeton)
22-5836	Hardenberg Street -- Parking Garage (New Brunswick City)

Vice-Chairman Stout asked the Commissioners if they wished any of the Zone B projects to be considered individually. Hearing no such request, the Vice-Chairman entertained a motion on the Zone B projects. Commissioner Reiser moved to approve the projects, which motion was seconded by Commissioner Palmer. Vice-Chairman Stout then asked for comments on the Zone B projects from the Commissioners or the public. Hearing none, he then told Director Hutchison to call the roll:

Vice-Chairman Stout	Yes
Commissioner Designee Madden	Yes
Commissioner Reiser	Yes
Commissioner Lubitz	Yes
Commissioner Shoffner	Yes
Commissioner Palmer	Yes

The motion was approved.

Executive Director's Report

Director Hutchison reported that in addition to the projects considered at the meeting, the staff completed 16 deficient staff reports, 6 jurisdictional determinations, 11 certificates of approval, and 7 general permits issued for the period encompassing May 17 to June 14. In addition to preparing the above documents, staff also organized and conducted 12 pre-application meetings related to proposed projects. He noted that as of June 15, there were 44 active projects undergoing staff review.

The Director noted that fee collections for the last month of the fiscal year were strong and totaled \$73,747.91. Deposits for Fiscal Year 2022, totaled \$609,395.91. The Director noted that the Commission had met and exceeded its anticipated appropriation of \$450,000 by more than \$159,000 with 14 days before the start of Fiscal Year 2023.

Director Hutchison reported that the NJDOT began the tree mitigation project along the southbound lanes of N.J. State Highway Route No. 29 (Route 29) in Hopewell Township in the area generally from Trap Rock Quarry south to the so-called Harbourt House or "Canal House" at the head of the Baldpate Mountain Yellow Trail. The plantings of Autumn Brilliance Serviceberry and Flowering Dogwoods and removal of uncontrolled Virginia Creeper and Poison Ivy vines are being done as mitigation for the removals of dead and dying Ash trees conducted along other sections of Route 29 (DRCC #18-3921D). The NJDOT project will begin where the PSE&G Moore's Station plantings left off and continue south along Route 29 S.B. to where the present stone retaining wall ends (south of M.P. 14.5).

Mr. Hutchison stated that the DEP Office of Information Technology (DEP/OIT) delivered the Logitech "Connect" portable "Conference Cam" device, which will enable the Commission to conduct meetings in a hybrid format once social distancing protocols are relaxed or lifted. The device will be installed in the coming week of June 20.

The Director conveyed that he submitted comments to the online NJDOT "Public Information Center" (PIC) for the proposed projects to replace the bridges over the Delaware and Raritan Canal at Chapel Drive ("Pillar of Fire") and at the Griggstown Causeway in Franklin Township, Somerset County. The

Director observed that PIC documents supplied by NJDOT raised questions with respect to compliance with the DRCC/DEP-SHPO/NJDOT bridge memorandum of agreement (MOA) signed in 2021.

Mr. Hutchison noted that in his PIC comments, he cautioned NJDOT about the proposed use of a cast in place concrete pylon for the Griggstown causeway bridge, which feature is disapproved of in the MOA (See Article II, Section 10). He also reminded them that the MOA calls for the incorporation of a slanted top rail. He also noted that he advised NJDOT that the Griggstown causeway design does not maintain the required minimum 36" of under clearance from the bridge structure for canoeists and kayakers as stated in the MOA (See Article II, Section 11), and that the submitted plans do not incorporate marked crosswalks or, in the case of Griggstown, pedestrian-activated crossing beacons (See Article II, Section 12). The MOA also directs that sheeting shall not be used without a compelling reason, and that apparent proposed sheeting noted on the plans would need to be approved by SHPO and the NJWSA. Lastly, the Director remarked that while it is early in the process, he was concerned that the PIC video mentioned that the bridge at the Griggstown causeway over the canal would be wider and that the roadway profile would be changed by 1.2 feet. Mr. Hutchison stated that he wished to obtain additional information from NJDOT on how these design changes could impact the adjacent bridgetender's shelter, which he described as being in an advanced state of disrepair, and the nearby historic bridgetender's house.

The Director related that on May 25, 2022, the DEP announced that it would adopt an emergency rule expanding the areas in New Jersey that are subject to flood hazard permitting requirements. This action is likely to be issued by mid-June and will go into effect immediately upon issuance. The emergency rule advances the provisions of [Executive Order No. 100 \(2020\)](#), and which directed the DEP to adopt Protecting Against Climate Change ("PACT") regulations. The rules are intended to address emissions of greenhouse gases and to incorporate climate change considerations into land use permitting requirements. Since that time, the DEP promulgated changes to air permitting requirements and has been working on drafting the land use portion of the PACT rules. The land use rule proposal is scheduled to be published later in 2022.

Due to the flooding caused by Tropical Storm Ida, the DEP determined that existing flood hazard mapping does not accurately reflect current flood risks because they are based upon historic events, not more recent occurrences, and that historic rainfall data no longer provided an adequate basis for predicting future storms.

Mr. Hutchison mentioned that Commissioners Lubitz and Stout had long advocated for revisions to rainfall calculations as they impact the Commission stormwater standards, and that the proposed emergency rule may have this effect. The Director said that Commission staff would monitor the planned adoption of the emergency rule and provide updates as necessary.

Mr. Hutchison stated that Hawley Brothers General Contractors began the project to repoint the stone foundation of the Commission office on Tuesday, June 7. The project involves chiseling out the deteriorated areas and replacing the failed mortar and areas of missing foundation stones. They have encountered a delay in obtaining the necessary materials, but the work to remove the old mortar is proceeding quickly. When this project is complete, the Director noted that all the major physical plant-related challenges that he encountered when he became Director in 2017 will have been addressed.

Finally, the Director reminded Commissioners and stakeholders that the Commission office would be closed on Friday, June 17, in observance of the “Juneteenth” State Holiday.

Vice-Chairman Stout noted that under Director Hutchison’s leadership the Commission office building has undergone tremendous rehabilitation. He thanked the Director and the assistance from DEP colleagues.

Mr. von Zumbusch thanked Director Hutchison for providing comments to NJDOT regarding the Griggstown and Chapel Drive bridge replacement projects.

Mr. von Zumbusch stated that, though he found the proposed DEP emergency rule regarding flood hazard permitting requirements an improvement, it was not an adequate proposal.

Park Superintendent’s Report

Superintendent Kalleser reported a successful Memorial Day weekend within the Delaware and Raritan Canal State Park, and that training of seasonal summer staff had occurred during that weekend.

Superintendent Kalleser reported that on June 3, the 1.3-mile loop “Inlet Trail” at the northern end of the Bull’s Island Recreation Area was officially opened to the public. She expressed appreciation to all parties involved in the project, from tree and shrub planting to the installation of a bench at the tip of the island. In addition, Superintendent Kalleser reported that on June 4 a new park trail opened along Heathcote Brook at the Mapleton Preserve, and that this trail was the project of an Eagle Scout. She stated that both trails were opened in conjunction with “National Trails Day,” held annually on the first Saturday in June. National Trails Day, founded by the American Hiking Society, is a day of public events aimed at advocacy and trail service.

Superintendent Kalleser reported that the surface of the park multiuse trail was rolled from Landing Lane to Blackwells Mills in Franklin Township, Somerset County. She reported that the section of the trail from Blackwells Mills south to Griggstown was scheduled to be rolled next. She noted the rolling activity required the temporary weekday closure of the Blackwells Mills day-use parking area, which was being used as the staging area for the contractor, but that the parking area would remain open on weekends.

Superintendent Kalleser stated that the Park Service also submitted comments to NJDOT PIC regarding the proposed Griggstown Causeway and Chapel Drive bridge replacement projects. She observed that it appeared that, in the case of the Griggstown project, the park multiuse trail would remain open, but there would be a one-year closure of the two parking lots located along the Griggstown Causeway between Millstone River Road and Canal Road, and that the Millstone Valley Scenic Byway Visitor Center at Griggstown would be separated from the multiuse trail for a one-year period.

Superintendent Kalleser reported that unexpected problems had arisen with the NJDOT contract to repair the Tropical Storm Ida damage to the multiuse trail at the former Belvidere-Delaware railroad trestle bridge at Prallsville Mills in Stockton, Hunterdon County. Because of this unforeseen delay, the park multiuse trail spanning the Wickecheoke Creek would remain closed for the foreseeable future.

Vice-Chairman Stout congratulated Superintendent Kalleser on the successful opening of the two new trails in the Delaware and Raritan Canal State Park.

New Jersey Water Supply Authority (NJWSA) Report

Mr. Sellar reported that the contractor for the NJWSA Landing Lane Spillway rehabilitation project was tentatively scheduled to start the project in July; however, the contractor was still experiencing supply chain difficulties related to construction material acquisition.

Mr. Sellar reported that, as part of the closing out of the canal dredging project, repaving of Canal Road would take place in front of the drying area during the next week.

Mr. Sellar reported that the NJWSA was awaiting the approval of permit applications before they could commence the Six Mile Run culvert rehabilitation project.

Mr. Sellar reported that the NJWSA on June 14 hosted the Hydrilla treatment kick-off meeting, which was attended by the NJWSA water customers and DEP staff. The treatment will start the week of July 6 and would run for 60 days at a dropped concentration rate of 2 parts per billion. Mr. Sellar confirmed the herbicide would again be fluoridone.

Mr. Sellar reported that an application for the project to repair areas of the upper embankment of the canal from Bull's Island south to Prallsville Mills would tentatively be submitted for approval to Commission for review the next month.

Mr. Sellar reported that NJWSA is advertising for engineering consultants for the modification of the Prallsville Mills culvert and wastegate.

Mr. Sellar reported that the NJWSA would conduct a third round of water sampling later in the month to control the invasive Chinese pond mussel (*Sinanodonta woodiana*). These invasive Asian mussels are transported to the country inside the gills of Asian carp. Their size and appetite enable them to out-compete native species for food and space, and have the potential to alter river bottom conditions, and harm native fish. Samples will be taken from 10-Mile Lock to Prallsville Mills and up the Wickecheoke Creek.

Vice-Chairman Stout inquired as to the status of the Stockton embankment repairs. Mr. Sellar stated that design options were being explored and reminded the Commission that the repair would be in two parts: first, a cosmetic repair to resurface the top of the embankment and, second, the structural repair. The work will be bid as two separate projects.

Old Business

None.

New Business

None.

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Public Comment

Mr. Barth stated that on June 26, 2022, at 2 p.m., D&R Canal Watch would host its annual meeting in the community room of the Griggstown Reformed Church. NJWSA Executive Director Marc Brooks was scheduled to speak at the meeting about ongoing and upcoming authority projects.

Mr. Massand asked Superintendent Kalleser how long the park multiuse trail resurfacing project from Blackwell Mills to Griggstown would take. She responded the project would be approximately three weeks in duration. Mr. Massand stated that Michael Newman and Laura Oltman were to be congratulated for a successful conclusion to the Raritan River Music Festival, held on May 28 at Prallsville Mills.

Written Public Comments

None.

Adjournment

There being no other business, Vice-Chairman Stout entertained a motion to adjourn. Commissioner Lubitz moved to adjourn the meeting, which motion was seconded by Commissioner Reiser. Vice-Chairman Stout called for a vote on the motion to adjourn, which was unanimously approved by voice vote.

The meeting adjourned at 10:31 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Hutchison", with a long horizontal line extending to the right.

John Hutchison, Secretary