



**November 16, 2022 Minutes of the Meeting  
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.  
DATE: November 16, 2022  
PLACE: Prallsville Mills, Stockton, New Jersey

**ATTENDING COMMISSIONERS:**

Vice-Chairman Bruce Stout and Commissioner Phillip Lubitz attended the meeting in the Commission offices. Robin Madden, designee for Commissioner of Environmental Protection Shawn LaTourette, Commissioner Douglas Palmer; Commissioner John Reiser, and Commissioner Caryl “Chris” Shoffner participated via online platform and teleconference.

STAFF: Executive Director John Hutchison, Review Zone Officer Colleen Maloney and Deputy Attorney General Jason Kane were present in the Commission office; Commission Engineer Joseph Ruggeri and Communications Director Darlene Yuh as participated via online platform.

GUESTS: Bob Barth, D&R Canal Watch; Patricia Kalleser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Wayne Petko; Shealynn M. O’Toole; John P. Mikusa, New Jersey Department of Transportation (NJDOT); Jillian Whitacre; Mitch Newman; Jack A. Eelman, NJDOT; Kathy Hale; Brian Danahy; Brian Perry; Ted Pivovarnick, Dino Spadacini; Joe Totardo; and John Tracy.

Since Commission members were participating in person and 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
Commissioner Palmer	Absent

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.

Commissioner Palmer joined the meeting at 10:04 a.m.

**Administrative Items**

Confirmation of December 21, 2022, Meeting Date

Vice-Chairman Stout stated that the next Commission meeting would be held on December 21, 2022, and urged any member who would not be able to attend to promptly notify the staff.

Minutes

Vice-Chairman Stout inquired if the Commissioners wished to propose comments or corrections to the October 19, 2022, meeting minutes. No comments or corrections were proposed. Commissioner Shoffner moved to adopt the minutes, which motion was seconded by Commissioner Reiser.

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

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

The minutes were approved.

**Review Zone Actions**

Zone A Projects

- #22-2022A 19 Risler Street -- Proposed Outbuilding & Shed Relocation (Stockton Borough)
- #22-2397C Janssen Pharmaceuticals -- Electrical Service Upgrade (Franklin Township)
- #21-5764 97 Main Street -- Proposed Apartment Development (South Bound Brook Borough)

Vice-Chairman Stout stated that Commissioner Shoffner, who serves as the Mayor of South Bound Brook Borough, was required, pursuant to advice from the Office of the Attorney General, to recuse herself on project DRCC #21-5764, and that the Commission would consider it separately from the other Zone A projects. Vice-Chairman Stout requested a motion on DRCC #21-5764, which was subsequently moved by Commissioner Lubitz and seconded by Commissioner Reiser.

Hearing none, the Vice-Chairman asked Director Hutchison to call the roll:

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

The motion was approved.

Vice-Chairman Stout then asked if Commissioners wished to consider either of the remaining Zone A projects separately. Seeing none, he asked for a motion to approve the projects. Commissioner Designee Madden made a motion to approve the projects, which was seconded by Commissioner Reiser.

Vice-Chairman Stout asked if any member of the public had any comments on the two remaining Zone A projects. Hearing none, he instructed 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 unanimously.

Zone B Projects

- #22-1851B 638 Brunswick Pike -- Cannabis Facility (West Amwell Township)
- #22-3446A Islamic Society of Central New Jersey -- Complex Improvements (South Brunswick Township)
- #22-4347B 375 Phillips Boulevard -- Proposed Additions (Ewing Township)
- #22-5565A 230 Belmont Drive Warehouse -- Major Modification (Franklin Township)
- #20-5585 1200 Cozzens Lane -- Subdivision and Residential Development (North Brunswick Township)
- #22-5661A Hopewell Parc Residential Development -- Stream Crossings (Hopewell Township)
- #22-5868 NJDOT -- Route 130/Georges Road/Wheeling Road Widening (South Brunswick Township)

Vice-Chairman Stout asked if any member of the Commission had any questions or comments regarding the seven Zone B projects calendared for consideration. Commissioner Palmer moved to approve the Zone B projects, which motion was seconded by Commissioner Reiser.

Vice-Chairman Stout asked if any member of the public had any comments on the Zone B projects.

Hearing none, he instructed 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 unanimously.

Vice-Chairman Stout stated that Superintendent Kalleser's report would be given first this month, so she could leave to attend another meeting.

**Park Superintendent's Report**

Superintendent Kalleser reported that architectural drawings were received and then submitted to DEP State Historic Preservation Office (SHPO) and the Commission for the project to elevate the furnace at the Kingston Locktender's House. She noted that the basement had sustained repeated damage from major flood events over the years, and that Tropical Storm Ida was no different. The relocation of the furnace to the attic would be started once SHPO weighed in on whether to locate the furnace ventilation in the roof or through the existing chimney.

The Superintendent reported that Hawley Brothers Contracting was awarded the contract to repair the park multiuse trail pedestrian bridge over the Alexauken Creek and aqueduct in the City of Lambertville, and that work was expected to begin in the second week of December. She noted that park staff and patrons will be excited to eliminate the detour on the multiuse trail.

Superintendent Kalleser stated that park staff had been addressing hazardous tree concerns throughout the Delaware and Raritan Canal State Park, most recently along Rivera Drive in the Titusville neighborhood of Hopewell Township, Rocky Hill, Frenchtown, and Stockton.

The Superintendent reported that the Park Service had been investigating residential encroachments in the park in vicinity of Lower Ferry Road in Ewing Township, Mercer County. The encroachments -- equipment, chairs, workout equipment, and gardens -- were investigated by the New Jersey Park Police and were removed by the residents or by park maintenance staff.

Commissioner Lubitz inquired whether the decision by the Fish and Game Council to reinstitute the bear hunt would impact the Delaware and Raritan Canal State Park, specifically the Horseshoe Bend Preserve in Kingwood Township. Superintendent Kalleser stated that to the best of her recollection, when the last bear hunt was authorized, Hunterdon County was not included in the authorized hunt zones. She deferred any further comment to Commissioner Designee Madden.

Commissioner Designee Madden noted that the Fish and Game Council had only approved the new Comprehensive Black Bear Management Policy authorizing the hunt on November 15. She said that

park staff would confer with the DEP Division of Fish and Wildlife to understand which parcels would be included in the hunt, and that proper outreach would be conducted with the impacted communities.

### **Executive Director's Report**

Executive Director Hutchison reported on the workload encompassing the period of October 17, 2022, to November 15, 2022. In addition to the 10 projects listed on the meeting agenda, the staff issued 20 deficient staff reports, 12 jurisdictional determinations, 11 certificates of approval, and 10 general permits. In addition to the preparation of those documents, staff organized and conducted 15 pre-application meetings related to proposed projects.

Mr. Hutchison reported that as of November 15, a total of 16 projects were undergoing staff review. He observed that this was a reduction from the 30 projects that were pending in October. He stated that it was premature to say that this reduction in applications was attributable to a slowdown in the regional or State economy. He noted that the number of pre-application meetings and jurisdictional determinations were considerable, and that reduction in application could, therefore, be transitory. He remarked that seasonal issues and the abatement of applications, which followed the easing of COVID-19 restrictions on the construction industry, and the proliferation of warehouse projects may have played a role in the situation.

The Director reported that fee collections for the month totaled \$34,800. Total fee collections for the fiscal year were \$214,602.72, which compared favorably to \$241,401 collected in October 2021. With one-third of the fiscal year completed, the Director noted that the Commission had collected 48% of the amount necessary to meet the Commission's anticipated Fiscal Year 2023 appropriation of \$450,000.

With respect to significant events and meetings, the Director reported that one of the general permits issued in October was to the DEP Office of Resource Development (ORD) for the relocation of the furnace and associated electrical system at the Kingston Locktender's House from its present location in the basement to the attic level.

Mr. Hutchison also reported that a general permit was issued to the NJWSA for the in-kind replacement of 11 sluice gates and associated operating assemblies at four locations on the Delaware and Raritan Canal and within the State Park in Somerset County: Griggstown Lock (Lock No. 9); 10 Mile Lock (Lock No. 10); South Bound Brook Lock (Lock No. 11); and 5 Mile Lock (Lock No. 12).

The Director noted that Hawley Brothers Contracting estimated that the cost to replace the skylight in the office conference room, which was struck by a branch from the Ash tree next to the building when the remnants of Hurricane Ian passed through New Jersey on October 1 through 3, would be approximately \$13,000. The Director hoped that skylight, which is not a standard size, would be ordered and installed before winter.

Director Hutchison stated that on October 20 he attended a virtual meeting of the New Jersey Historic Sites Council, which reviewed and approved a project to construct a new visitors center at Washington Crossing State Park. The proposed new center would be located within Commission Review Zone A overlooking N.J. State Highway Route No. 29. The existing visitor's center, built about 50 years ago to

celebrate the nation's bicentennial, is proposed for demolition. He noted that the background presentation by Dr. West-Rosenthal of the State Historic Preservation Office and the testimony by the project architect were very helpful in understanding the history of the site and the scope of the proposed project, and would assist Commission staff's review when an application is eventually submitted by ORD.

Mr. Hutchison reminded Commissioners that a proposed calendar year 2023 annual meeting schedule was transmitted along with their monthly meeting materials. The proposed schedule remained the same in that the Commission would meet on the third Wednesday of the month. There were no conflicts with State or major religious holidays. If the meeting schedule is acceptable, the Director proposed that it will be listed on the December meeting notice as an administrative item for Commission approval.

**New Jersey Water Supply Authority (NJWSA) Report**

Mr. Sellar reported that the Landing Lane spillway repair project remained delayed due to material supply chain issues encountered by the contractor. As a consequence, the start date for the project could not be determined.

Mr. Sellar stated that the plans and specifications for the project to rehabilitate the Six Mile Run culvert in Franklin Township were being finalized with the consultant, and that the NJWSA expected the project to go out to bid within the next two months.

Mr. Sellar reported that a tuber survey had been conducted in the Delaware and Raritan Canal, and that no Hydrilla tubers were found this year. He noted that no tubers had been found in 2021; and that it was the intention of the NJWSA to monitor the situation going forward. The herbicide injection pump at the undisclosed location would remain set up, but no fluridone would be in placed in it. If herbicide injections were required, based upon the monitoring of the canal, the NJWSA would be ready to resume injections next year or in subsequent years.

Mr. Sellar stated that the project to replace the 11 sluice gates and assemblies mentioned by Director Hutchison was out for bid, and that bids were due on December 14. Once received, the bids would be evaluated.

Vice-Chairman Stout stated that the news regarding Hydrilla was tremendously exciting.

**Old Business**

None.

**New Business**

None.

**Public Comment**

None.

**Written Public Comments**

None.

**Adjournment**

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

The meeting adjourned at 10:16 a.m.

**Subsequent to adjournment of the Commission meeting on November 16, 2022, Zoe N. Ferguson, Esq., Associate Attorney with the firm of Lieberman Blecher & Sinkevich, P.C. submitted the following written comments via email from Geoffrey Goll, P.E., President, Princeton Hydro, LLC, regarding DRCC #22-1851B -- 638 Brunswick Pike -- Cannabis Facility, which are reproduced verbatim hereinbelow:**

“On behalf of Woodmeier Farms, LLC, Princeton Hydro, LLC (Princeton Hydro) is submitting the following comments regarding the proposed application referenced above and before the Delaware and Raritan Canal Commission (DRCC) for consideration of approval. The primary issue which we are addressing is the calculation of impervious cover, an unexplained and incomplete access road shown on the plans, and concerns regarding the functioning of the stormwater management basin. According to the Applicant’s stormwater report, they state that they are reducing the total amount of impervious cover by 2,877 square feet (sf) and removing 7,200 sf of total motor vehicle surface. However, the stormwater report does not provide calculations that identify which areas of impervious are being removed, and which are being added. As a result, it is unclear as to the accuracy of the total impervious surface and site disturbance that is actually being proposed.

The DRCC Staff Report prepared for this project, the staff reviewed the following two (2) documents:

*“Site Plans (15 sheets) dated January 12, 2022, last revised September 23, 2022, Surface Water Management Report (18 pages) dated September 7, 2022; prepared by Roberts Engineering Group LLC.”*

Princeton Hydro reviewed the documents listed above. There are no calculations, table summaries, or plan markups identifying how the existing and proposed impervious surface areas were determined. It is not clear if the DRCC staff are simply taking the Applicant’s word for it, or other information was submitted to DRCC to supplement the above documents. The lack of details provided by the Applicant’s engineer is concerning, as it is unclear whether or not the total amount of proposed impervious cover and the net difference calculations between the proposed and existing surfaces are correct.

Of particular concern is that the Applicant may not be including the gravel pads to be constructed around the building have been included in the net change in impervious cover. Within the Regulations for the Review Zone of the Delaware and Raritan Canal State Park, impervious surface is defined as:

...a surface that has been covered with a layer of material so that the surface is highly resistant to infiltration by water. Examples of impervious surface include but are not limited to asphalt, concrete, **graveled surfaces** [underlined and bolded for emphasis], metal, synthetic turf, buildings, sidewalks, driveways, tennis courts, swimming pools and most structures.

This application proposes to construct nearly 12,000 sf (scaled from digital pdf of plans) of a gravel surface with underlying filter fabric to support the external portions of the project’s HVAC and air filtration systems. It is not clear if the Applicant’s engineer included these surfaces in their impervious surface calculations. The gravel pad on the eastern side of the existing building is proposed to contain storm inlets connected to the storm sewer system, which is also a clear indication that the area will act as impervious surface. The Applicant must provide a detailed breakdown of the proposed and removed impervious areas on the plans, that highlight the specific areas being calculated and a table summarizing the calculations.

The Staff Report states under “Water Quality” that the project does not propose any new or renewed access drives, parking areas or other motor vehicle surfaces. In fact, the Applicant is proposing a new “Access Drive and Work Area”, shown on Sheets 4, 7, and 13 of the latest plans referenced above. As stated, purpose of this road is to access the septic system in the northern area of the site. However, this access road is not identified on the northern portion of the site on corresponding Sheets 6 (there are no corresponding sheets for the northern area of the site for Sheets 4 and 13). This road is simply shown with an open end over the match line for the northern area of the property. It is expected that this access will be permanent, as it is not labeled otherwise and will require surfacing with gravel or other surfaces defined as impervious surface in the DRCC definition of the term. The Applicant must provide the location of the remainder of this road and include it within their total impervious surface calculations for the site, and how stormwater will be managed.

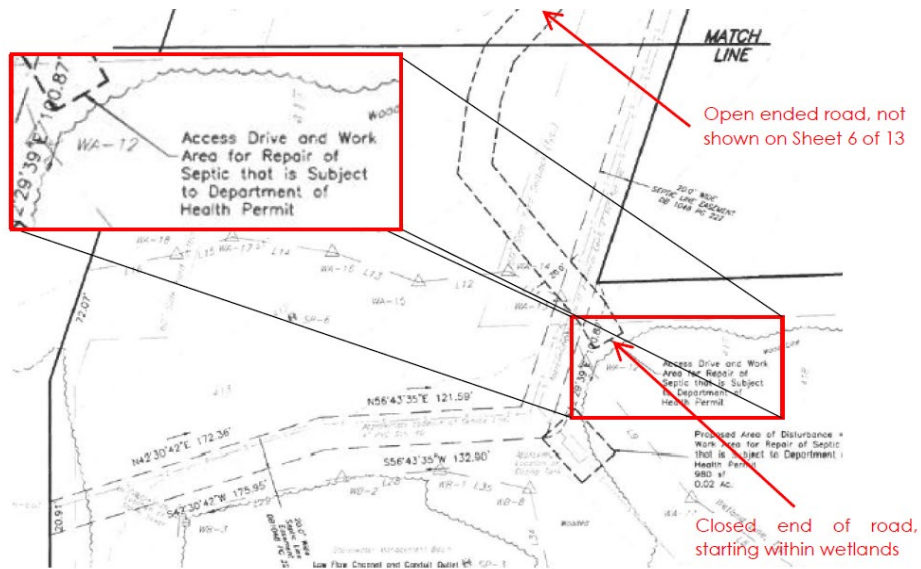


Figure 1 Screen capture of NW corner of Sheet 7 of 13, highlighting the NEW access road and its label. Note that the



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**road is open ended at the top of the image, but also starts in the middle of the wetlands on the southern, closed end of the road Open ended road, not shown on Sheet 6 of 13 Closed end of road, starting within wetlands.**

The Applicant must also include an analysis that the existing stormwater system will function as originally designed, even if the increase in impervious cover is less than one quarter of an acre, although, as stated above, it is not clear if this is the case. While the staff report states that they expect the basin to be returned to the original design, the original design information is not included on the plans or within the stormwater management report. At a minimum, a discussion of the original design, its performance standards, grading to restore the basin to the original design grades, and assurance of the structural integrity of the existing embankment and outlet works.

Based on the above discussion and issued identified, this application must not be approved at this time. The breakdown of impervious areas must be clearly demonstrated, construction details and the extent (including where the road will be accessed from a paved area, and where it eventually terminates) of the access road must be shown, and the proposed design of the basin restoration, including grading and stormwater calculations illustrating compliance, at a minimum, with the original approval must be provided.

Thank you in advance for your consideration in this matter.”

**Subsequent to adjournment of the Commission meeting on November 16, 2022, Linda B.M. Meier, NJ Professional Land Surveyor, submitted the following comments via email regarding DRCC #22-1851B -- 638 Brunswick Pike -- Cannabis Facility, which are reproduced verbatim hereinbelow:**

“Please accept these follow up comments on the above referenced application for Green Medicine.

I submitted comments to the commission on this project on May 13, 2022. Among the materials I submitted was my analysis of the claim the applicant was making of a net reduction of impervious on the site.

At that time the site plans were under review by the West Amwell Township Planning Board.

The plans I had analyzed were dated last revised 4-19-22. The calculations I provided showed my findings were that while the applicant was reducing the area of pavement and concrete by 1,270 sf +/-, they were also adding 6” of clean stone in the two large mechanical equipment areas running north-south along both sides of the existing building. I found the area of stone (not including the concrete pads) to be 4,850 sf.

We know that the impervious coefficient for stone is not as high as pavement. But with a coefficient of say 0.70, even with a reduction of 1,370 sf of pavement (0.95), the new stone area on the site would result in a substantial overall increase in impervious.

This was the information I provided to the Commission on May 13th.

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Now let's look at what the applicant's engineer has said. On his last revised 4-19-22 plans, in General Note #2 on sheet 5 of 14, Engineer Corini states that the existing impervious surface has been reduced by 1,923 sf. (The set of Site Plans last revised 4-19-22 is attached for your convenience.)

On the set of Site Plans submitted to you as part of their application, those last revised 9-23-22, General Note #2 on sheet 5 of 15, Engineer Corini says the existing impervious surface has been reduced by 2,877 sf.

The startling thing here is that in a careful comparison of the two plans, it does not appear that any new areas of impervious were removed. But rather, in fact, the 9-23-22 plans (sheet 5 of 15) show three additional new areas of impervious as follows:

1. A new paved fire lane has been added with dimension of 52.3' x 20';
2. A new 4' x 8' concrete pad for fills for the new underground water storage tanks has been added; and
3. Two 30,000 sf underground water storage tanks for firefighting purposes have been added. The tanks are each 54.17 feet long by 10.33 feet wide, side by side. Sheet 12 of 15 shows a 6" thick reinforced concrete pad above the tanks in a cross-section construction detail.

None of these 3 substantial areas of NEW impervious are shown on the 4-19-22 plans, and yet Engineer Corini represents on the 9-23-22 plans that the area of impervious has been further reduced over the 4-19-22 representation.

The application provides no calculations to substantiate their claim of reducing impervious.

An issue as important to your regulations as an increase or decrease in impervious areas should be required to be detailed in the submission made to your commission.

The applicant's engineer must be required to provide signed and sealed calculations supporting his contention that the impervious area overall on this site has been reduced."

Respectfully submitted,



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John Hutchison, Secretary