



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

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

**ATTENDING COMMISSIONERS:**

Vice-Chairman Bruce Stout; Deputy Director of Parks and Forestry 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 and Ms. Colleen Maloney were 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; Linda Barth, D&R Canal Watch; Robert von Zumbusch, Delaware and Raritan Canal Commission Master Plan Advisory Committee; Patricia Kallesser, Superintendent, Delaware and Raritan Canal State Park; Michael Sellar, New Jersey Water Supply Authority (NJWSA); Vicki Chirco, Historian, Delaware and Raritan Canal State Park; Jim Henry; Greg Oman, Menlo Engineering; Jim Betlyon; Rich Ortiz; Paul Kausch; Wayne Petko; Elizabeth Helsel; Rikki Massand; Anthony Genchi; Jason Wert; Ryan P. Kennedy; Carol Villa; Ingrid Kohler; Renee Woodside.

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
Commissioner Palmer	Present

March 16, 2022

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 April 20, 2022, Meeting Date

Vice-Chairman Stout stated that the next Commission meeting would be held on April 20, 2022.

#### Lease Agreement NJWSA, DEP, DRCC, Princeton University

Vice-Chairman Stout asked Director Hutchison to provide an overview of the matter. Director Hutchison stated that the agenda item is the proposed approval of an amendment to a lease agreement dated January 4, 2012, between Princeton University, the NJWSA, the Department of Environmental Protection (DEP) and the Delaware and Raritan Canal Commission for the lease of State property at Washington Road adjacent to and under the Delaware and Raritan Canal to construct and maintain an 8-inch or less electrical conduit for a term of 20 years at \$914.70 per year adjusted annually after year one by an annual inflation rate of 2.5%.

Commissioner Designee Madden asked for clarification that the lease payments were directed to NJWSA only and not the DEP. Director Hutchison stated that was correct. He also noted that the Commission may want to consider, within the motion, that the Director be authorized to approve any non-substantive revisions to the document which may be made, such as corrections.

Vice-Chairman Stout asked for further comment from the Commissioners and the public. Ms. Villa asked if the lease involved traffic on a state road. Vice-Chairman Stout stated the issue of traffic was not relevant to the lease agreement.

Commissioner Reiser made a motion to approve the lease and to authorize the Executive Director to approve non-substantive changes to the document if amendments or revisions were required. Commissioner Shoffner seconded the motion.

Vice-Chairman Stout then directed 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.

Minutes

Vice-Chairman Stout inquired if the Commissioners wished to offer comments or corrections on the February 16, 2022, meeting minutes. Hearing none, the Vice-Chairman called for a motion to approve the minutes. Commissioner Palmer 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	Yes
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

21-2091O NJAW Canal Road Water Treatment Plant – Solar Array Project (Franklin Township)  
21-5760 10 Trimmer Avenue – Residence Demolition/Construction (Hopewell Township)

Vice-Chairman Stout asked if the Commissioners wished to consider either Zone A project separately. Hearing none, he requested a motion on both Zone A projects. Commissioner Reiser moved to approve the projects, which motion was seconded by Commissioner Lubitz.

The Vice-Chairman asked for comment on the Zone A projects from the Commissioners and the public. Mr. Massand stated that with regard to the NJAW Canal Road Water Treatment Plant solar project, he found it difficult to understand the value to the canal environment with the clearing of 80 trees in 2 acres of wooded area and suggested that the solar arrays should be limited to the existing meadow areas. He further noted that structures were being proposed up in an area where flooding starts at the confluence of the Millstone and Raritan rivers, and that he had concerns about the project’s environmental impact.

Vice-Chairman Stout asked for further comment on the Zone A applications, and hearing none, directed Director Hutchison to call the roll for the motion on the Zone A projects as recommended in the staff reports:

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**

- 21-1454C Ellsworth Center Redevelopment (West Windsor Township)
- 21-4576A Route 1 Proposed Popeye’s Restaurant (South Brunswick Township)
- 21-4663C Route 33 – Proposed Retail Center and Restaurant (Monroe Township)
- 21-4677B Brown Avenue – Roadway Extension (Hillsborough Township)
- 15-4765 Tabatchnick Fine Foods – Food Processing and Freezer Facility (Franklin Township)
- 21-5677 1460 Livingston Avenue – Proposed Warehouse Buildings (North Brunswick Township)

Vice-Chairman Stout asked if the Commissioners wished to consider any of the Zone B projects separately. Hearing none, he requested a motion on the Zone B projects. Commissioner Reiser moved to approve the Zone B projects, which motion was seconded by Commissioner Shoffner.

Vice-Chairman Stout asked for comment on the Zone B projects from the Commissioners and the public. Hearing none, he then directed Director Hutchison to call the roll for the motion on the Zone B projects:

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**

The Director reported on the monthly workload by stating that, in addition to the projects listed on the agenda, the staff issued 15 deficient staff reports, 12 jurisdictional determinations, 8 certificates of approval, 3 General Permits, and 1 staff report to be calendared for the April meeting.

In addition to the preparation of the above documents, staff organized and conducted 15 pre-application meetings for proposed projects. The Director also conducted two site inspections to examine visual and stream corridor impacts of proposed projects. In addition, as of March 14, there were 27 active projects undergoing staff review.

Mr. Hutchison reported that fee deposits for the preceding month totaled \$33,950. Deposits for Fiscal Year 2022, which began on July 1, 2021, totaled \$370,536. Thus, with three months remaining in the fiscal year that ends on June 30, 2022, the Commission needed to collect about \$45,000 to meet its anticipated annual appropriation of \$450,000.

Director Hutchison reported that, on March 7, he participated with DEP staff in a remote meeting with the Delaware Valley Regional Planning Commission (DVRPC), which is the federally designated Metropolitan Planning Organization for the Greater Philadelphia region, established by an Interstate Compact between the Commonwealth of Pennsylvania and the State of New Jersey. The DVRPC is working in conjunction with the City of Trenton's Division of Planning to develop a Comprehensive Trail Network Action Plan for Trenton. The stated goals of this plan include documenting the existing and desired network and working toward greater coordination among the many jurisdictional partners involved in maintaining and developing this network.

The development of a pedestrian and bicycle trail that would connect the so-called "abandoned" portion of the Delaware and Raritan Canal from Bordentown to Trenton has been a long-standing goal of the Commission. The Commission's 1989 Master Plan strongly advocated for "... the development of a pedestrian and bicycle path in this segment in order to establish continuity for the Canal Park." The Commission's 2003 Development Plan also called for a trail connection along the Delaware River, due to the fact that the construction of N.J. State Highway Route No. 129 and the NJ Transit River Line had complicated the situation because both were built over the filled-in canal.

Director Hutchison stated that as a historical curiosity, he also provided the DVRPC with copies of documents from the files of former Director Jim Amon regarding the unsuccessful attempt to have a "bikeway" included as part of the I-295/I-195/I-95 "Trenton Complex" project in the late 1980s. He hoped that these documents could help inform the conversation going forward.

Director Hutchison reported that he was pleased to have participated in the meeting and was hopeful that any recreational element of any future Commission Master Plan could align closely with the DVRPC's work with respect to future trail extension projects.

Director Hutchison reported that, on March 8, an architect from Holt Morgan Russell visited Prallsville Mills to examine the partially-collapsed wall along the Wickecheoke Creek next to the Commission Office. He thanked the DEP Office of Resource Development (DEP/ORD) for advancing the project.

Director Hutchison reported that, at the request of the ORD, he held a meeting with Damian Friebel who, in addition to being one of the Commission's engineers, is also a senior member of the DEP Bureau of Flood Engineering. The ORD requested that the Commission staff and the DEP provide preliminary feedback on the proposed repairs to the Prallsville railroad trestle bridge abutments, which had been seriously eroded during Tropical Storm Ida. The Director also contacted the DEP's State Historic Preservation Office (SHPO) to ascertain their views on how the damaged bridge abutments should be repaired. He noted that the downstream side of the bridge abutments and piers are mortared stone in a rough random ashlar pattern, while the upstream sides are covered in a smooth parged concrete, probably by the Pennsylvania Railroad during their lease of the canal. He stated that it was SHPO's belief that the smooth concrete parging without whitener should be pursued for the repair project. He noted that since it was a "new" feature in the Delaware and Raritan Canal Historic District, there was some flexibility on this issue if the Commission felt strongly about the matter of the wall's finish. However, Director Hutchison noted that SHPO cautions Commissioners and stakeholders that the repair and rehabilitation of historic structures should be mindful of the provisions of the U.S. Secretary

of the Interior Standards for Rehabilitation, which advise that creating a false sense of historical development, such as adding conjectural features or architectural elements from unrelated buildings or structures, should be avoided.

Director Hutchison reported that pursuant to a directive issued on March 11 and effective on March 14, masks and face coverings were no longer required for DEP employees, customers and visitors while indoors at DEP offices and buildings during periods when the New Jersey COVID-19 Activity Level (CALI) is “low” (green) or “moderate” (yellow).

Director Hutchison stated that staff has also been advised that programs may resume in-person public meetings. If a program chooses to resume in-person public meetings, staff has been advised that we must provide the public with the option to participate in person as well. In other words, the Director stated that the Commission may not meet in person and simultaneously require the public to participate remotely. If the Commission chooses to resume in-person meetings, it is permitted to consider a “hybrid” approach wherein members of the public may participate both in person and remotely. He stated that staff was advised by the DEP that if the Commission building has capacity issues related to accommodating the public, it should consider continuing to hold remote meetings at this time.

In addition, the Director stated, staff is advised that employees should continue to remain six feet apart to the greatest extent possible.

Director Hutchison stated that given the foregoing advice, he wished to solicit the views of the Commission and the public regarding the advisability of resuming in-person Commission meetings in a hybrid format. He noted that staff could arrange the audience seats to accommodate a limited number of participants while still observing social distancing guidelines. He also noted he could work with the DEP Office of Information Technology (DEP/OIT) to reconfigure the conference room cameras so that Commissioners could see their colleagues and thereby fully participate in meetings. He stated that any Commissioner who would like to discuss any concerns is encouraged to contact him via email or telephone.

Commissioner Reiser stated that he opposed to making in-person attendance by the Commissioners mandatory. Commissioner Designee Madden stated she supported a hybrid approach to meetings. Commissioner Lubitz stated that he would recommend that the in-person meetings not be resumed until such time that six-foot social distancing was concluded. Commissioner Palmer agreed with Commissioner Lubitz and stated that it would be wise to resume in-person meetings after social distancing rules were ended. Commissioner Shoffner observed that virtual meeting attendance was best for her and assisted with maintaining a quorum. Vice-Chairman Stout summarized that it was the majority’s opinion that it was to better to wait until social distancing was no longer required before resuming any in-person or hybrid Commission meetings. Director Hutchison observed that he anticipated it would be several months before the technology in the office, including additional camera capacity, would be in place to conduct a hybrid meeting. Vice-Chairman Stout asked the Director to initiate action with the DEP/OIT to adapt the Commission conference room to allow hybrid meetings.

### **Park Superintendent's Report**

Superintendent Kalleser reported that, on March 8, the Central Jersey "Stream Team" tackled the boot-sucking mud and removed approximately 300 tires, a derelict fiberglass boat, remnants of a car, and two large truckloads of trash from the so-called "abandoned" section of the Delaware and Raritan Canal located near the Abbott Marshlands of Hamilton Township, Mercer County. She noted that photographs of the team's work were posted on the Delaware and Raritan Canal State Park Facebook page (<https://www.facebook.com/delawareandraritancanalstatepark>) and expressed her gratitude to the Stream Team and her dedicated park staff for their hard work. She also thanked the Mercer County Clean Communities Council for funding the responsible disposal of the discarded tires and DEP Watershed Ambassador Megan Schupsky for her support of this effort.

Superintendent Kalleser reported that the project to restore the historic East Millstone Bridgetender's Station has been successfully completed through the combined efforts of the many partners, partnerships, State permitting agencies, the DEP/ORD and Hawley Brothers contractors. She expressed special appreciation to the Delaware and Raritan Canal Commission and the D&R Canal Watch for funding the assessment documents and restoration costs. She noted that park staff looks forward to discussing programming for East Millstone and reopening the station for public viewing during the October "Canal Fest" event.

Superintendent Kalleser reported that, on March 15, the park hosted an AmeriCorps Watershed Cleanup with the Watershed Ambassadors and the D&R Canal Greenway in the City of Trenton. She noted that in a three-block section of the park, 10 cubic yards of trash and 200 tires from under the Calhoun Street Bridge were removed.

Superintendent Kalleser reported that, on March 26, there will be a cleanup of the park multiuse trail conducted in conjunction with the Delaware Township Environmental Commission and Watershed Ambassador Marisa Immordino in the area between Prallsville Mills and Bull's Island. The event is part of the larger New Jersey Watershed Ambassador Program/AmeriCorps "Project in a Park" initiative in partnership with the DEP Division of Parks and Forestry. There are five designated cleanup spots: Byram Boat Launch, Bull's Island, Federal Twist Road, Paulmier Road, and at the Prallsville Mills complex.

Superintendent Kalleser reported that on Saturday, April 30, and Sunday, May 1, the park will host a joint program along with the Delaware Township Environmental Commission, Kingwood Township Environmental Commission, and the New Jersey AmeriCorps Watershed Ambassador Program to plant trees at the Bull's Island Recreation Area at the future "Inlet Trail" located at the northern section of the park. The planting has been funded through a \$5,000 grant from the Lower Delaware Wild & Scenic River organization. Park Naturalist Stephanie Fox and representatives of Delaware and Kingwood townships applied for the grant, which will restore and enhance the understory of the woodlands at Bull's Island with native herbaceous and shrub species.

Vice-Chairman Stout noted that the Commission looked forward to the ribbon-cutting ceremony to open the Inlet Trail and restore public access to the northern section of the Bull's Island Recreation Area. Commissioner Designee Madden stated that she was engaged in the process of scheduling this event.

March 16, 2022

Commissioner Palmer congratulated Superintendent Kalleser for the cleanup in the vicinity of Calhoun Street in the City of Trenton and noted that the work was much appreciated by residents of that community along the canal.

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

Mr. Sellar reported that the contractor for the NJWSA Landing Lane Spillway rehabilitation project was delayed by supply chain difficulties related to construction material acquisition, and that work on the project likely would begin next week.

Mr. Sellar reported that further action was undertaken to complete the dredging project along the main canal, including the completion of Soil Conservation District and U.S. Army Corp of Engineers (USACE) permitting, the submission of a final cultural and historic resources report to the SHPO, and the submittal of documents to the DEP Municipal Finance and Construction Element.

Mr. Sellar stated that NJWSA Senior Watershed Protection Specialist Heather Desko will report on the 2022 NJWSA Hydrilla treatment plan at the April 20, 2022, Commission meeting.

Mr. Sellar reported that NJWSA was preparing amended schematic designs for planned repairs to the Delaware and Raritan Feeder Canal embankment from Bull’s Island Recreation Area south to Prallsville Mills. He noted that additional trees were identified to be removed on the narrow strip of embankment between the canal and the Delaware River.

Mr. Sellar reported that with the completion of the South Bound Brook lock gate replacement, two of the five planned underwater inspections of canal locks could be scheduled for this spring.

Mr. Sellar reported that final design for the Six-Mile Run Culvert rehabilitation project was underway. The culvert carries Six-Mile Run under Canal Road, the canal and the multiuse trail, respectively, and is located approximately 1,000 feet south of Blackwells Mills Road in Franklin Township, Somerset County. Mr. Sellar reported that permit applications were submitted to the USACE, the Commission and the DEP Division of Land Resource Protection.

Finally, Mr. Sellar reported that the NJWSA’s annual in-house inspection of the canal revealed no major issues, and that minor items could be addressed by staff.

**Old Business**

None.

**New Business**

None.

**Public Comment**

Mr. von Zumbusch stated that on April 2, 2022, the Kingstown Locktender’s House would be open to the public from 4:00 p.m. to 5:00 p.m.

Mrs. Woodside, a resident of West Amwell Township, stated her opposition to the retail facility



March 16, 2022

proposed at the corner of N.J. State Highway Route No. 179 and Music Mountain Boulevard in West Amwell Township. She stated that there is opposition from residents regarding stormwater, flooding and particularly the traffic in that area. She hoped to have others from the community speak to the Commission about their opposition to the project.

**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 Designee Madden. Vice-Chairman Stout called for a vote on the motion to adjourn, which was unanimously approved by voice vote.

The meeting adjourned at 10:45 a.m.

Respectfully submitted,



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John Hutchison, Secretary