



**July 19, 2023 Minutes of the Meeting  
Delaware and Raritan Canal Commission**

TIME: 10:00 a.m.  
DATE: July 19, 2023  
PLACE: Prallsville Mills, Stockton, New Jersey

**ATTENDING COMMISSIONERS:**

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

STAFF: Executive Director John Hutchison and Ms. Colleen Maloney were present in the Commission office. Deputy Attorney General Jordan Viana, Commission Engineer Joseph Ruggeri, Communications Director Darlene Yuhas, and Executive Assistant Erica Vavrence participated via online platform.

GUESTS: Lauren Rojewski, Superintendent, Delaware and Raritan Canal State Park; Vicki Chirco, Resource Interpretive Specialist, Delaware and Raritan Canal State Park; Michael Sellar, Facilities Manager, New Jersey Water Supply Authority (NJWSA); Linda Barth, D&R Canal Watch; Bob Barth, D&R Canal Watch; Robert von Zumbusch, Kingston Historical Society; Rikki Massand; Andrew Harris; Nicholas DeCotiis; Patrick R. Ward, PE, PP; Michael Ehrenreich; Joseph Paparo; Joseph Bachi, PE; Linda Meier, Woodmeier Farm; Pete Campisano; Tony Suozzo; Brian Isserman, ISSCO Limited; Whitney Roth; Kaitlyn Doyle; Brook Rotheram; Natalie Zisa.

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.

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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 Texel	Present
Commissioner Reiser	Present
Commissioner Lubitz	Present
Commissioner Shoffner	Present
Commissioner Palmer	Present

Director Hutchison stated that a quorum was present.

**Administrative Items**

Confirmation of August 16, 2023, Meeting Date

Vice-Chairman Stout stated that the next Commission meeting would be held on August 16, 2023.

**Minutes**

Approval of the Minutes of the June 21, 2023, Commission meeting

Vice-Chairman Stout inquired if any of the Commissioners wished to propose comments or corrections to the June 21, 2023, Commission meeting minutes. Hearing none, he asked for a motion to approve the minutes as prepared by staff. Commissioner Shoffner made a motion to adopt the minutes as proposed, which was seconded by Commissioner Lubitz.

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

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

The minutes were approved.

**Review Zone Actions**

Zone A Projects

21-4952C	The General's Retreat -- Carriage Barn Renovation (West Amwell Township)
23-5991	8 Church Street -- Single-Family Residence Construction (Stockton Borough)
23-6007	16 Church Street -- Mixed-Use Development Exterior Renovations (Lambertville City)

Vice-Chairman Stout asked if members of the Commission wished to review any of the Zone A projects separately. Mr. Texel stated he had a question on one of the projects. The Vice-Chairman requested a motion on the three Zone A projects. Commissioner Lubitz made a motion to approve the projects, which motion was seconded by Commissioner Shoffner. The Vice-Chairman asked for comment on the

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Zone A projects from the Commissioners.

Mr. Texel asked for clarification on the distance of the project site from the Delaware and Raritan Canal State Park, as well as those from the canal described in the staff report for DRCC# 23-5991 -- 8 Church Street. Director Hutchison stated that Commission Review Zone A encompasses the land within 1,000 feet of the Delaware and Raritan Canal and that the project located approximately 920 feet east of the canal was, therefore, a Zone A project for the purposes of the Commission's jurisdiction and scope of review. The Director noted that in the Borough of Stockton, the Delaware and Raritan Canal State Park multiuse trail was located on the right-of-way of the former Belvidere-Delaware Railroad, which is approximately 520 feet from the project site. Thus, the project was in compliance with the criteria at N.J.A.C. 7:45-10.4(a), which imposes a 200-foot setback from the park for projects in Review Zone A. Director Hutchison then noted that the Delaware and Raritan Canal Historic District encompasses the canal bed and all land and structures located within 300 feet of the centerline of the Delaware and Raritan Canal. Therefore, since the project area was approximately 920 feet from the canal, it was not within the historic district, and the provisions of N.J.A.C. 7:45-10.4(d)6 relating to impacts of projects upon historic districts were inapplicable to the project.

Vice-Chairman asked for further comment on the Zone A projects from the Commissioners, and then the public. Ms. Meier commented on DRCC# 21-4952C The General's Retreat -- Carriage Barn Renovation. She stated she found it odd that the stormwater runoff from the site flowed on to the adjacent property and expressed concern that an easement was not required for the project.

Director Hutchison stated that it was not out of the ordinary for projects to rely upon or share stormwater management infrastructure with adjacent properties, nor was it a violation of the Commission's regulations to do so. Director Hutchison further responded that the project was not reviewed for stormwater impact because it did not propose the requisite amount of new impervious surface coverage to meet the threshold in the Commission's regulations for such review pursuant to N.J.A.C. 7:45-8.

The Vice-Chairman directed Director Hutchison to call the roll on the Zone A projects:

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

The motion was approved.

Vice-Chairman Stout stated that, with regard to DRCC# 21-4952C The General's Retreat -- Carriage Barn Renovation, the Commission did not look favorably upon applications to approve work that had already been completed. He stated that it was the Commission's expectation that no work would be undertaken at the site in the future without the prior approval of the Commission. The Vice-Chairman stated that he was specifically referring to the pending application on the property to construct a hotel that was submitted by the same applicant.

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Dr. Ehrenreich introduced himself as the project applicant and thanked the Commission for approving the carriage barn project. He further remarked that the Vice-Chairman's comments were duly noted and said there had been an unusual circumstance with West Amwell Township and a series of misunderstandings with respect to the barn project, and it was not his intention be in this situation again.

Zone B Projects

- #22-3222B 51 Remy Court -- Rear Yard Improvements (Montgomery Township)
- #23-4182D South Hunterdon Middle School Building (West Amwell Township)
- #23-4815C 58 White Oak Drive -- Major Modification (Municipality of Princeton)
- #20-5636 Franklin Townhomes (Franklin Township)
- #22-5659A 1200 Somerset Street -- Car Wash Renovations (New Brunswick City)
- #22-5717B Wargo Pond Dredging (Hopewell Township)
- #22-5936 320 Carter Road -- Proposed Residence (Hopewell Township)
- #23-5969 Ewing Township Board of Education -- Gusz Building Addition (Ewing Township)

Vice-Chairman Stout asked if any member of the Commission wished to consider the Zone B projects separately. Commissioner Lubitz noted he had a question about one project. The Vice-Chairman asked for a motion on the Zone B projects. Commissioner Designee Texel moved to approve the projects, which motion was seconded by Commissioner Reiser. The Vice-Chairman asked for comment from the Commissioners.

Commissioner Lubitz observed that with respect to DRCC #22-3222B -- 51 Remy Court -- Rear Yard Improvements, the soils on the current project site, which were found to be susceptible to groundwater recharge at the time of the development's original construction, were now found to be impermeable due to construction activity, such as back filling. Director Hutchison stated the situation was unusual, but that it does happen in some circumstances. Mr. Ruggeri stated that when a site is developed, consolidation of soils can affect permeability, thus affecting the site's ability to recharge.

Commissioner Lubitz stated that the Commission approves projects with the expectation that there will continue to be permeability of soils, without consideration to the possibility of the soil type changing to an impermeable soil. He stated that in the case that the development relies upon well water, one might worry that not only one home but the whole development could be negatively affected by lack of recharge. Mr. Ruggeri stated that the Commission regulatory authority does not extend to wells. He also clarified that for recharging soils, applicants are required to design the project with best management practice (BMP) measures that support the continued recharging of the soils. If a soil does not recharge on a site, the Commission considers the recharge standard to have been addressed.

Vice-Chairman Stout asked if any member of the Commission had further comment. Hearing none, he then asked if the public had any comments. Mr. Massand stated that project DRCC# 22-3222B is a project located adjacent to a townhouse and apartment development in Montgomery Township in the historic community of Harlingen, which is listed on the State Register of Historic Places. He stated that it was a shame and a matter of concern that the local community must deal with developers' errors, cost cutting and the cutting of corners during construction from decades ago, and that towns are now dealing with the resultant stormwater management problems. He further stated he was pleased Commission Lubitz brought the matter up for discussion.

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The Vice-Chairman directed Director Hutchison to call the roll:

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

The motion was approved.

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

Director Hutchison reported on the Commission workload for the period encompassing June 21, 2023, to July 18, 2023. In addition to the 11 projects listed on the meeting notice, the staff issued 22 deficient staff reports, 11 jurisdictional determinations, 10 certificates of approval, and 4 general permits. In addition to these matters, staff organized and conducted 15 pre-application meetings related to proposed and pending projects. As of July 18, 2023, the Director noted that there were 32 projects awaiting staff review.

The Director stated that fee collections totaled exactly \$25,000 for the month. While this amount was somewhat less than the \$63,425.74 collected in 2021, it was more in line with collections in 2020 (\$24,500) and 2019 (\$28,550) and much better than the \$1,300 collected in July 2022. Therefore, the Director observed that with one month of the new fiscal year completed, fee collections were off to a somewhat slow start; but not nearly as slow as one year ago.

With regard to significant events and meetings, Mr. Hutchison stated that on July 17, the new DEP Stormwater Management and Flood Hazard Rules at N.J.A.C. 7:13 took effect. The rules, better known as the Inland Flood Protection Rules, impact new or reconstructed developments and seek to confront climate-change-induced increases in the intensity of precipitation events and the resulting effects of additional stormwater runoff on stormwater management systems and flood elevations in fluvial (i.e. non-tidal) areas. The new regulations contain several key provisions:

- New Design Flood Elevation (DFE) raises fluvial flood elevation mapped by DEP by 2.0 feet;
- Require the use of new current (1900-2019) and new future year (2100) projected precipitation rather than 1900-1999 observed precipitation when calculating flood elevations;
- Requires that stormwater BMPs be designed to manage runoff for both current and future storms; and
- Removes use of Rational and Modified Rational methods for stormwater calculations.

He further stated that the new rules would potentially impact applications to the Commission in several respects. First, the 2.0-foot increase in the DFE fluvial flood elevation could potentially impact application of the 40-foot height requirement at N.J.A.C. 7:45-10.4(b) for structures in Review Zone A that are located in non-Urban canal environments. Commission staff had noticed a trend in applications for townhome developments that places proposed garages on the first floor of a proposed residence to

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comply with local flood ordinances. This, in turn, has raised the overall height above grade of those structures. This has occurred almost entirely within Urban canal environments in communities such as the City of Lambertville, where the 40-foot height requirement does not apply, and proposed new structures may vary according to the height of existing structures to which they have a visual relationship. The Director noted that the Commission may be called upon to approve more waivers of strict adherence from the height requirement in future applications.

Director Hutchison stated that the proposed use of new current (1900-2019) and new future year (2100) projected precipitation rather than 1900-1999 observed precipitation when calculating flood elevations will also have an impact upon the delineation of the 100-year floodplain of new projects. Since the Commission stream corridor is generally delineated based upon a 100-foot buffer from the 100-year floodplain, the Director considered it likely that Commission stream corridors would expand in the future and that more projects would be subject to the stream corridor impact review standards at N.J.A.C. 7:45-9.

He noted it was also probable that the requirement for BMPs to be designed to manage runoff for both current and future storms would increase the size of basins and other structural and non-structural stormwater management infrastructure on project sites. In situations where the project is regulated both by the Commission and the DEP, the Director observed that this difference would likely not be noticed, since the applicant will be required to meet the more stringent DEP requirements and would invariably design to comply with them. Similarly, in situations where the Commission and a municipality are both regulating a project, municipal adoption of the DEP standards would also require the applicant to meet the more stringent standard. Mr. Hutchison noted that it remained to be seen whether the comparatively small universe of projects regulated by the Commission in Zone A that created more than 800 square feet of impervious surface coverage but less than one quarter acre of impervious surface, and were not otherwise regulated by the DEP or the municipality, would ultimately be designed to meet a less stringent standard.

Finally, Director Hutchison stated that the elimination of the Rational Method and the Modified Rational Method for stormwater calculations would impact the design -- and most importantly the size -- of stormwater BMPs to address the impacts of the 2-, 10- and 100-year storm events and comply with the stormwater quantity standards at N.J.A.C. 7:45-8.6. He speculated that presumably, Chapter 5 of the Stormwater BMP Manual would be changed to align with the rule change, and since the Commission relied upon the DEP Stormwater BMP Manual to review the design of stormwater BMPs, presumably stormwater basin designs would get larger in the future to meet this new requirement.

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

Superintendent Rojewski reported that, as a result of the recent heavy rains and storm impacts, the Bulls Island Recreation Area experienced minor flooding, resulting in the closure of the Inlet Trail and the Bulls Island Boat Launch. However, no significant damage had been reported. In addition, park staff reacted to the weather forecast and took preventative measures at the former Griggstown Bridgetender's House that serves as the Millstone Valley Scenic Byway Visitor Center. Specifically, staff moved equipment and goods to the second floor of the building and out of harm's way.

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The Superintendent reported that, as a consequence of the strain on staff resources at the Delaware and Raritan Canal State Park over the Fourth of July holiday weekend, additional summer season hiring would take place.

The Superintendent reported that at the Bulls Island Recreation Area seasonal staff held a Fire Safety Program on July 8. She noted that additional park program activities were under development, including cleanups, interpretive kayak trips, and walks.

Superintendent Rojewski stated that hazardous tree removal work was completed in mid-July at Bulls Island Recreation Area and that park staff were fielding numerous reports of hazardous trees located on private property adjacent to State land.

The Superintendent reported that park staff were installing new signs to address improper park usage and public safety concerns along the banks of the Delaware River at the Frenchtown Borough Park and Ride Lot. She noted DEP Land Management Review and State Historic Preservation Office (SHPO) signage applications were currently pending.

The Superintendent reported that DEP staff met to discuss a proposal by South Bound Brook Borough to create a canoe/kayak access area to the Delaware and Raritan Canal on Barber Boulevard near the historic Abraham Staats House. The Park Service was reviewing the proposal and evaluating the feasibility of the idea, after which point a response would be sent to the borough.

The Superintendent reported that exterior renovations to the Rockingham Historic Site in Franklin Township, Somerset County, were nearing completion and that the work was expected to be finished by the end of July.

Superintendent Rojewski reported that the project to stabilize the chimney at the historic Saxtonville Tavern on State Highway Route No. 29 in Delaware Township, Hunterdon County, across from Bulls Island Recreation Area, was completed by park maintenance staff, including placement of framing to support the outdoor kitchen fireplace keystone that should prevent further destabilization.

The Superintendent informed the Commission that a Facebook page had been created for the Bulls Island Recreation Area, and she encouraged everyone to visit.

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

Mr. Sellar reported that work was nearing completion on the Landing Lane Spillway rehabilitation project (DRCC #19-3300B) located in the City of New Brunswick, Middlesex County. He noted that the project is anticipated to be finalized in two weeks.

Mr. Sellar informed the Commission that the project to rehabilitate the stone culvert, which conveys Six Mile Run underneath Canal Road, the Delaware and Raritan Canal and the park multiuse trail in Franklin Township, Somerset County (DRCC #22-3306C), would commence within one or two weeks.

Mr. Sellar reported that a pre-construction meeting would be held within the week and then work would commence for Phase 1 of the project (DRCC #22-3255D) to repair an approximate 1.0-mile section of

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the western embankment of the Delaware and Raritan Feeder Canal in Stockton Borough, which separates the canal from the Delaware River and is generally located between the Prallsville Lock and the railroad bridge crossing over the canal at Brookville in Stockton Borough.

Mr. Sellar reported that the alternative solutions for the D&R Canal Water Quality Improvement Project via Cedar Grove Brook Overflow Weir Structural Improvements in Franklin Township, Somerset County, were under consideration by the NJWSA's engineers.

Mr. Sellar informed the Commission that the NJWSA was reviewing shop drawings for the project to replace 11 canal sluice gates located at four locks in Somerset County. Following this review, manufacture of the gates would commence.

Mr. Sellar stated that NJWSA staff were working to address the impacts of seasonal severe thunderstorm damage along the Delaware and Raritan Canal, including tree removal and debris cleanup. NJWSA crews were also cutting grass along the canal.

Mr. Sellar stated that the algal bloom in the canal that he reported on last month was a green algae and not the blue-green harmful algal bloom (HAB) caused by cyanobacteria, which was detected in the Millstone River last summer. He stated that the NJWSA would continue to monitor the water quality in the canal and the Millstone River.

Mr. Sellar stated that NJWSA staff responded to a report of a sinkhole that is associated with a culvert near on Easton Avenue (Somerset County Route No. 514) in Franklin Township near the border of that municipality with South Bound Brook Borough. He said that a consultant was brought in to review the problem and propose possible responses to the issue.

Mrs. Barth asked Mr. Sellar if he knew the reason for the closure of Canal Road in Franklin Township, Somerset County, between Old Georgetown Road and Coppermine Road on Sunday, July 16. Mr. Sellar responded that the closure was unrelated to canal operations, and it was his understanding that a drainage ditch that empties into a concrete culvert along the roadway could not control the volume of water produced by the weekend rainstorm, and that as a result, the flood waters had damaged the road requiring its closure by Franklin Township.

**Old Business**

None.

**New Business**

None.

**Public Comment**

None.

**Written Public Comments**

None.



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**Adjournment**

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

The meeting adjourned at 10:35 a.m.

Respectfully submitted,

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

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John Hutchison, Secretary