

DELAWARE RIVER BASIN COMMISSION

MEETING OF SEPTEMBER 12, 2012

Minutes

The Commission met at the Commission's office building in West Trenton, New Jersey.

Commissioners Present: Kelly J. Heffner, Pennsylvania, Chair
Michele N. Siekerka, New Jersey, Vice Chair
Angus Eaton, New York, Second Vice Chair
Kathleen M. Stiller, Delaware
Erik J. Rourke, United States

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

Commission Chairwoman Kelly J. Heffner convened the business meeting at 1:30 p.m. with introductions by the Commissioners and key staff. Ms. Heffner announced that during the Public Dialogue portion of the meeting speakers would be allowed five minutes each.

Minutes. The Minutes for the Commission Meeting of July 11, 2012 were approved unanimously on a motion by Ms. Stiller, seconded by Mr. Eaton.

Announcements. Ms. Bush announced the following meetings:

- *Partnership for the Delaware Estuary.* The Partnership will host its annual “*Experience the Estuary Celebration*” on Thursday, October 11, 2012 at Bellevue State Park’s Figure Eight Barn in Wilmington, Delaware. Contact Karen Forest at Partnership for the Delaware Estuary for more information about tickets, table reservations, sponsorships, and, through October 1, donations for the silent and live auctions.
- *PCB PMP Peer-to-Peer Workshop.* On October 22, 2012 a workshop will take place at the PSEG Energy and Environmental Resource Center in Salem, NJ for the exchange of information on best practices and lessons learned for reducing PCB contamination through pollutant minimization plans.

- *DRBC Flood Advisory Committee Meeting.* Wednesday, September 19, 2012 at 10:00 a.m. in the Goddard Conference Room. (This is the meeting was originally scheduled for August 29, 2012.) Staff contact: Laura Tessieri, (609) 883-9500, extension 304.
- *DRBC Regulated Flow Advisory Committee Meeting.* Thursday, September 20, 2012 at 10:00 a.m. in the Goddard Conference Room. Staff contact: Hernan Quinodoz, (609) 883-9500, extension 225.
- *Upcoming Webinar.* A free webinar hosted by the Delaware River Basin Source Water Collaborative on the topic, “Contaminants of Emerging Concern in the Delaware River Basin,” will take place Tuesday, September 25, 2012 from 10:00 to 11:30 a.m. Environmental toxicologist Dr. Ronald MacGillivray of the DRBC will discuss his report on results of a pilot monitoring survey on contaminants of emerging concern in the tidal Delaware River. Scott Stoner, Chair of the Pharmaceuticals Work Group, New York State Department of Environmental Conservation, will outline New York’s approach to reducing pharmaceuticals in water. Check the DRBC website for more details.
- *National Prescription Drug Take-Back Day.* Saturday, September 29, 2012 from 10:00 a.m. to 2:00 p.m. Sponsored by the Drug Enforcement Administration (DEA), this event is an opportunity to return unwanted or expired prescription drugs and reduce pollutant loadings into waterways.

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

The observed precipitation for the portion of the Basin above Montague, New Jersey for the period January 1 through September 10, 2012 was 27.99 inches or 2.17 inches below normal. The observed precipitation for the Basin above Trenton for the same period was 27.70 inches or 3.55 inches below normal and for the Basin above Wilmington, Delaware for this period, 23.15 inches or 7.32 inches below normal.

The average observed streamflow of the Delaware River at Montague in August 2012 was 2,086 cubic feet per second (cfs) or 98.0 percent of the long-term average for the month. For the same period, the average observed streamflow at Trenton was 4,193 cfs, or 82.7 percent of the long-term average for the month.

For the period of September 1 through September 10, the average observed streamflow at Montague was 2,145 cfs, or 99.0 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 5,260 cfs, or 105.2 percent of the long-term average for the month.

In the Lower Basin, as of September 11, 2012, Beltzville Reservoir contained 13.97 billion gallons (bg) usable, or 100.3 percent of usable storage, and Blue Marsh contained 5.51 bg usable, or 98.3 percent of summer pool usable storage. As of September 10, Merrill Creek contained 14.87 bg usable, or 94.8 percent of usable storage.

In the Upper Basin, as of September 11, 2012, Pepacton Reservoir contained 104.066 bg usable or 74.2 percent of usable storage. Cannonsville contained 56.385 bg usable, or 58.9 percent of usable storage. Neversink contained 23.437 bg usable or 67.1 percent of usable storage. The total New York City Delaware Basin reservoir storage was 183.888 bg usable or 67.9 percent of usable storage.

During the month of August 2012, the location of the seven-day average of the 250-parts-per-million (ppm) isochlor, also known as the “salt line,” ranged from River Mile (RM) 72 to RM 77. The normal location of the salt line during August is RM 77, which is one mile downstream of the Delaware-Pennsylvania state line.

As of September 9, the salt line was located at RM 77, which is two miles downstream of the normal location of the salt front during September.

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

- *Ganges River Basin, India.* Ms. Collier, Executive Director Bob Tudor, and Communications Manager Clarke Rupert met recently with Ajay Raghava, Deputy Director for the National River Conservation Directorate of the Republic of India. Mr. Raghava is a Visiting Fellow at Cornell University, who is here to gather ideas and approaches for river basin management. His specific focus, the Ganges River Basin, supports 500 million people. Listening to Mr. Raghava speak about the problems he faces, including less rain, excessive groundwater pumping and less snow in the Himalayas, helps to place in perspective the problems we grapple with in the Delaware Basin, as challenging as they may be. India’s difficulties also served as a reminder for us to keep an eye on world water resources concerns and how we fit into a much larger picture. It was a good wake-up call.
- *Retirement of David B. Soete, Upper Delaware Council.* Many in attendance are familiar with Dave’s wonderful photography and his regular emails of news clips on natural resource issues of concern in the basin. Dave is retiring September 28, 2012 after 23 years with the Upper Delaware Council, and we’re all going to miss him. Hopefully, Dave will stay in the basin and be active in some other way.
- *Partnership for the Delaware Estuary Press Event.* Last week the Partnership for the Delaware Estuary held a press event to announce publication of the State of the Estuary Report. A link to the report can be found on the DRBC website. The report is based on a much thicker technical report, evaluating 50 metrics, to which DRBC staff made significant contributions.
- *Annual Basin Plan Status Report.* DRBC also issued its annual report on status in implementing the Water Resources Plan for the Basin in 2004. The annual reports address not just DRBC activities, but the actions of all our partners to advance Basin Plan objectives. The Basin Plan status report is available on DRBC’s website, with links to pages on the activities of our partners.

- *5th Anniversary of Common Waters Forum.* On October 11 Common Waters Forum will have its fifth anniversary in the Upper Basin. Ken Najjar of the DRBC staff can be contacted for more information on the forum and its activities.
- *Exelon Generation Company, LLC – Limerick Generating Station.* On August 28 DRBC and PADEP conducted a joint public hearing in Pottstown, Pennsylvania on draft DRBC Docket D-1969-210 CP-13 and PADEP's draft National Pollutant Discharge Elimination System permit. The public comment period on the approvals closes on October 27, 2012.
- *U.S. Geological Survey.* USGS has selected the Delaware River Basin as one of the priority areas for its national water census analysis. At a recent meeting, USGS staff provided an update to DRBC staff, describing significant work completed in three areas: (1) ecological flows and endangered species; (2) updating water supply and demand data through 2012; and (3) building a model that will allow DRBC to test different scenarios for population, streamflow, and other variables, so that we can better manage the system.
- *U.S. Army Corps of Engineers – Philadelphia District.* DRBC staff and Corps staff are working with the Corps salinity model and DRBC's flow model to better test how flow affects the salt line in the Delaware Estuary.
- *NOAA.* A meeting is being scheduled between DRBC and the National Oceanic and Atmospheric Administration (NOAA) to define focus areas for a pilot study that will identify how forecasting and modeling tools can help us with water management in the future.
- *The Nature Conservancy Workshop.* A two-day TNC workshop on September 24-25 will bring together fisheries experts from all four basin states to discuss river flow requirements.
- *AmeriCorps Watershed Ambassadors.* You may know that we host one of the AmeriCorps Watershed Ambassadors from New Jersey. Our newest ambassador, Jade Greene, will be joining us this Friday, to perform on-the-ground projects in the watershed.
- *DRBC Commissioners July 12, 2012 Retreat.* The Commissioners held a retreat after our July meeting to develop priorities for the future of DRBC. One of the major directives to emerge from this meeting is to reduce duplication and develop a one-stop permitting program for wastewater discharges using state NPDES permits as the mechanism. We will be moving in the direction of combining state and DRBC requirements in a single instrument for the protection of shared waters.

During the morning conference session Ms. Collier presented a resolution recognizing former New Jersey Alternate Commissioner John Plonski for his years of public service in Pennsylvania and New Jersey as he embarks on a new path. The text of the resolution follows:

RESOLUTION

A RESOLUTION recognizing John Plonski for his dedicated public service in Pennsylvania and New Jersey spanning more than 30 years, and in particular, for his contributions to the Delaware River Basin Commission.

WHEREAS, John Plonski earned a Bachelor of Arts degree, *cum laude*, from Franklin Pierce University and went on to acquire Public Administration and Senior Executive training from American, Harvard, Duke, and Yale Universities;

WHEREAS, John was the City Manager of Norristown, Pennsylvania from 1979 to 1988;

WHEREAS, John served as Commissioner and Chief Executive Officer of the Philadelphia Water Department from 1988 to 1992;

WHEREAS, John held the post of Deputy Secretary for Management with the Pennsylvania Department of Environmental Resources in 1995, prior to that agency's reorganization into two separate cabinet-level departments;

WHEREAS, John was named the Executive Deputy Secretary and Chief Operating Officer of the Pennsylvania Department of Conservation and Natural Resources in 1995 and held the position until 2004;

WHEREAS, John joined the New Jersey Department of Environmental Protection in April 2010 as the Assistant Commissioner of Water Resource Management, a program which brings Water Supply, Water Quality, Monitoring and Standards, and the New Jersey Geological Society together for integrated management and service to the public;

WHEREAS, Governor Chris Christie appointed John to serve as his Second Alternate on the DRBC in June 2010;

WHEREAS, John's leadership skills, extensive water resource management experience, and his ability to work with others on highly complex issues have earned him the respect of his colleagues at the Commission and throughout the Delaware River Basin;

WHEREAS, John left New Jersey DEP in February 2012 to pursue other interests; now, therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

The Commissioners and staff extend their sincere appreciation to John Plonski for his wide-ranging efforts to protect and preserve the Delaware River Basin for present and future generations, his career-long commitment to excellence in public service, and his friendship. We wish him and his wife Carol good health and much happiness in the years ahead.

ADOPTED: September 12, 2012

General Counsel's Report. Mr. Warren reported that three cases have been consolidated in front of a single judge in the Eastern District of New York in Brooklyn. The central issue raised in the consolidated cases is whether the Commission is obligated to follow the National Environmental Policy Act (NEPA). The matter also involves claims against federal agencies as to whether they

need to follow NEPA in conjunction with their actions as members of the Commission. Oral argument on motions to dismiss and cross-motions for summary judgment has taken place, and no decision has yet been rendered.

With respect to litigation in the District of New Jersey, a case was filed seeking to overturn an Executive Director Determination concerning natural gas. That case has been dismissed. Another second case in the District of New Jersey challenges a docket that the Commission issued to Stone Energy Corporation. Plaintiffs in that matter recently filed a motion to compel the addition or inclusion in the administrative record of various documents as to which the Commission claimed confidentiality or privilege. That motion is in the briefing stage.

Assistant General Counsel Report on Appeals and Settlements. Ms. Bush reported that the Commission received a request for hearing in August on a determination of the Executive Director regarding jurisdiction over certain pipeline projects and linear natural gas transmission infrastructure projects in general. The Commissioners are in consultation with the staff on this matter and expect to have a response at the December meeting.

Ms. Bush explained that Section 2.7.8 of the Rules of Practice and Procedure provides for settlement in lieu of a penalty wherever settlement is in the interest of the Commission and the regulated party. She asked the Commissioners to ratify three settlement agreements in connection with alleged violations of DRBC docket conditions for, respectively, the Exelon Power Fairless Generating Station, Exelon Power Schuylkill Generating Station and the Downingtown Area Regional Authority. None of the three agreements involve contested facts. All concern alleged effluent monitoring violations, which are classified as minor or moderate on the civil penalty matrix that the Commission adopted in 2009. The settlement amounts are the lowest amounts authorized under circumstances where the docket holder has no record of past violations, has cooperated in good faith with the Commission, is not willfully violating Commission requirements, has incurred only minor economic benefits as a result of the alleged violation and where limited or no adverse effects on water resources have occurred as a result of the violation.

Ms. Bush explained that each of the settlement agreements had been executed by the staff and the settling party and reiterated that the Commissioners' ratification of the three was requested.

Chairwoman Heffner requested a motion to ratify the three settlement agreements as described by Ms. Bush. Mr. Eaton so moved, Ms. Siekerka offered a second, and the settlement agreements with Exelon Power Fairless Generating Station, Exelon Power Schuylkill Generating Station and Downingtown Area Regional Authority were unanimously approved.

Public Hearing: Project Review Applications. Mr. Muszynski of DRBC presented for the Commissioners' consideration 27 dockets listed in the public hearing notice. By way of background, he explained that about six weeks before the Commission notifies the public of the dockets to be scheduled for hearing at a Commission meeting, the Project Review staff sends draft dockets for internal review and comment to the appropriate agencies of the Commission's member states and the federal government. Approximately three weeks before the hearing notice is issued, a hearing notice, including descriptions of the draft dockets, is filed for publication in

state and federal registers. Ten business days prior to the meeting, staff post a “Notice of Commission Meeting and Public Hearing” on the DRBC website that includes a list of the draft dockets scheduled for hearing and consideration by the Commissioners at the meeting. The list includes hot links to the draft dockets on the website. During the Commission Meeting and Public Hearing draft dockets are presented, comment is accepted, and the Commissioners consider whether to approve, disapprove or postpone consideration of each docket. The approved dockets are posted on the Commission’s website and staff also provide notice of the approvals directly to the states and applicants.

Mr. Muszynski explained that the review process takes six to nine months to complete, and that the public is informed of the status of project applications by a variety of means during that period as follows: Each docket application the Commission receives is added to the “Project Review Status Report” on the DRBC website. The report includes the applicant’s name and project location, a description of the proposed project, the docket number assigned to the project, and the name of the staff member reviewing the project. A list of applications received also is compiled approximately five times a year and posted on the Commission’s website as the “Notice of Applications Received” (NAR). An Interested Parties List (“IPL”) is created for each project under review. Anyone can have his or her name added to the IPL for a given project. Those on the IPL will receive email copies of public notices for the project, including the notice advertising the public hearing. Members of the public seeking additional information about a project may contact the staff member reviewing the project or arrange by appointment to review the relevant Project Review file at any time that is mutually convenient for the staff and the party.

Mary Ellen Noble of the Delaware Riverkeeper Network recalled that in the past there had been a column on the Project Review Status Report that listed a tentative hearing date for each project. Mr. Muszynski said this element of the report had been discontinued. Ms. Noble said that the difficulty for interested parties under the current system is that a project can remain on the Status Report for six months or more with no indication of imminent activity until ten days before the meeting at which it will be considered for approval. She said she hoped the tentative hearing date element of the report would be restored. Mr. Muszynski said this was something that could be considered; however, he observed that the tentative dates often changed and people tended not to check back for updates. People were then inconvenienced by attending a Commission meeting at which the project of interest to them was not addressed.

The dockets were presented in three groups: Category A, consisting of docket renewals involving no substantive changes (hearing items 1 through 13); Category B, consisting of renewals involving significant changes, such as an increase or decrease in an authorized withdrawal or discharge (hearing items 14 through 23); and Category C, consisting of projects not previously reviewed by the Commission (hearing items 24 through 27).

A. *Renewals with No Substantive Changes (hearing items 1 through 13).* The Commission received no comments on these projects.

1. Mount Holly Municipal Utilities Authority, D-1970-133 CP-4. An application to renew the approval of an existing discharge from the 6.0 million gallons per day (mgd) Mount Holly MUA wastewater treatment plant (WWTP). The WWTP will continue to discharge treated effluent to the North Branch Rancocas Creek, located in Water Quality Zone 2, at River Mile 111.06 - 8.64 - 4.1 (Delaware River - Rancocas Creek - North Branch Rancocas Creek), via Outfall No. 1 in Mount Holly Township, Burlington County, New Jersey.
2. Middle Smithfield Township, D-1973-209 CP-2. An application to renew the approval of an existing discharge from the 0.05 mgd Winona Lakes WWTP. The WWTP will continue to discharge treated effluent to Bushkill Creek at River Mile 226.5 - 5.5 (Delaware River - Bushkill Creek) via Outfall No. 001, within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Middle Smithfield Township, Monroe County, Pennsylvania.
3. Myerstown Borough, D-1974-176 CP-3. An application to renew the approval of an existing discharge from the 2.0 mgd Myerstown Borough WWTP. The applicant does not propose any modifications to the existing WWTP. The WWTP will continue to discharge to the Tulpehocken Creek, a tributary to the Schuylkill River, at River Mile 92.47 - 76.8 - 34 (Delaware River - Schuylkill River - Tulpehocken Creek), in Jackson Township, Lebanon County, Pennsylvania.
4. Chester County Department of Facilities Management, D-1983-015 CP-4. An application to approve an existing discharge from the Pocopson Home and Prison WWTP. This docket approves an increase from 0.13676 mgd to 0.2 mgd in the WWTP's annual average design flow, an increase that was conditionally approved in the previous docket (D-1983-.015 CP-3). The WWTP treats domestic wastewater through the use of a sewage treatment lagoon and spray irrigation. The WWTP will continue to discharge treated effluent to three (3) existing spray irrigation fields located in the Pocopson Creek Watershed in Pocopson Township, Chester County, Pennsylvania.
5. Pennsylvania American Water Company, D-1986-059 CP-3. An application to renew the approval of an existing groundwater withdrawal (GWD) of up to 6.696 million gallons per month (mgm) to supply the applicant's public water supply system from existing Well No. EP-1 completed in Graphitic Gneiss. The Pennsylvania American Water Company Merlin Hills system serves customers in portions of East Pikeland Township and East Vincent Township. The requested allocation is not an increase from the previous allocation. The well is located in the French Creek Watershed in East Pikeland Township, Chester County, Pennsylvania.
6. Panther Creek Power Operating, LLC, D-1987-066-6. An application for the transfer of ownership and to renew the approval for use at the applicant's 84-megawatt waste coal

fired thermal electric Panther Creek Energy Facility of (a) of an existing allocation of up to 69.2 mgm of groundwater from the Lausanne Tunnel mine pool overflow and (b) a subsidiary allocation of up to 37.2 mgm of surface water purchased from Nesquehoning Borough Authority. Ownership of the facility was transferred from Panther Creek Partners to Panther Creek Power Operating, LLC on August 2, 2012. No changes to the facility operations or water allocations are proposed. The docket will also include two (2) existing electric transmission line stream crossings that were previously approved by Docket Nos. D-88-46 and D-91-52. The project, including the associated withdrawal, is located within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Nesquehoning Borough, Carbon County, Pennsylvania.

7. Middle Smithfield Township, D-1990-080 CP-3. An application to renew the approval of an existing discharge from the 1.0 mgd Fernwood WWTP. The WWTP will continue to discharge treated effluent to the Bush Kill at River Mile 226.9 - 2.3 (Delaware River - Bush Kill) via Outfall No. 001, within the drainage area of the section of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in Middle Smithfield Township, Monroe County, Pennsylvania.
8. Ravensclaw Investors LP, D-2001-008-2. An application to renew the approval of an existing GWD of up to 6.70 mgm to irrigate the Raven's Claw Golf Club from existing Wells Nos. TW-1 and TW-2 completed in the Brunswick Formation. The project is located in the Hartenstine Watershed, in Limerick and Lower Pottsgrove Townships, Montgomery County, Pennsylvania, within the Southeastern Pennsylvania Groundwater Protected Area.
9. Little Washington Wastewater Company, D-2006-032 CP-2. An application to approve the construction and operation of the 0.077 mgd Honeycroft Village WWTP. The WWTP will apply the treated effluent to a 14-acre spray field located near River Mile 70.7 - 1.5 - 20.0 - 10.1 - 2.2 - 8.1 (Delaware River - Christina River - Brandywine Creek - West Branch Brandywine Creek - Buck Run - Doe Run), in Londonderry Township, Chester County, Pennsylvania.
10. River Road Utilities, Inc., D-2006-038-2. An application to renew the approval of an existing discharge from the 0.066 mgd Tuscarora WWTP. The WWTP will continue to discharge treated effluent to Water Quality Zone 1D of the Delaware River at River Mile 204, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Upper Mount Bethel Township, Northampton County, Pennsylvania.
11. Pennsylvania American Water Company, D-2008-002 CP-2. An application to renew the approval of an existing filter backwash discharge from the 0.402 mgd Yardley water filtration plant (WFP). The WFP will continue to discharge to an unnamed tributary of Brock Creek at River Mile 138.0 - 0.54 - 1.6 (Delaware River - Buck Creek - Brock Creek) via Outfalls Nos. 001 and 002, within the drainage area of the section of the non-

tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Yardley Borough, Bucks County, Pennsylvania.

12. Morrisville Municipal Authority, D-2008-006 CP-2. An application to renew the approval of an existing discharge from the 0.15 mgd water filtration plant (WFP). The WFP will continue to discharge to Water Quality Zone 1E of the Delaware River at River Mile 134.6 (Delaware River), within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Lower Makefield Township, Bucks County, Pennsylvania.
13. Tuthill Corporation & Aquashicola-Little Gap, Inc., D-2008-023-2. An application to renew the approval of an existing discharge from the 0.06 mgd Blue Mountain Ski Area WWTP. The WWTP will continue to discharge treated effluent to Aquashicola Creek at River Mile 183.66 - 36.32 - 5.73 (Delaware River - Lehigh River - Aquashicola Creek) via Outfall No. 001, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Lower Towamensing Township, Carbon County, Pennsylvania.

Ms. Noble commented on docket hearing items 4 and 9, Chester County Department of Facilities Management (D-1983-015 CP-4) and Little Washington Wastewater Company – Honeycroft Village (D-2006-032 CP-2) respectively. She noted that these projects respectively involved 34 and 14 acres of spray irrigation and asked whether the Commission has rules or policies that specifically encourage spray irrigation option or whether were the result of pressure from the county in favor of that option. Mr. Muszynski explained that in the drainage area of Special Protection Waters, new and expanding facilities must consider alternative treatment and discharge options, including land disposal. Golf courses are encouraged to use treated wastewater when possible. Otherwise, he said, there is no particular regulation or rule requiring this option. The State's approach is similar.

Mr. Muszynski recommended that the Commissioners approve hearing items 1 through 13), consisting of docket renewals without substantive changes. Hearing no questions or comments, Ms. Heffner requested a motion to approve the 13 dockets in this category. Ms. Stiller so moved, Ms. Siekerka seconded her motion, and hearing items 1 through 13 were approved by unanimous vote.

B. Renewals with Substantive Changes (hearing items 14 through 23). Mr. Muszynski introduced the next category of dockets consisting of renewals involving significant changes.

14. Ferro Corporation, D-1968-143-2. An application to approve a modification to the existing 2.0 mgd Ferro industrial wastewater treatment plant (IWTP). The proposed modification consists of the construction and installation of an outfall pipe extension with multi-port diffuser at the end of the existing IWTP outfall. No other modifications to the IWTP facilities are proposed. This docket also includes the approval of a Total Dissolved Solids (TDS) determination consisting of a maximum instantaneous TDS effluent concentration limit of 30,000 mg/l. The IWTP will continue to discharge to Water

Quality Zone 4 of the Delaware River at River Mile 79.0, in Logan Township, Gloucester County, New Jersey.

15. Cambridge-Lee Industries, LLC, D-1970-120-2. An application to approve modifications to the industrial process water discharges associated with Plants Nos. 2, 3, and 4 of the existing Cambridge-Lee copper tubing manufacturing facility. The applicant proposes to expand operations at Plant No. 4 to include the following: add eleven (11) new cooling towers to the three (3) existing cooling towers; add three industrial pre-treatment processes (water softening, mixed media filter, and reverse osmosis); and re-establish an average discharge of 0.0112 mgd of cooling tower blowdown and industrial wastewater pre-treatment system backwash to the Schuylkill River via existing Outfall 001. The applicant also proposes to reduce the average discharges to the Schuylkill River from existing Outfall No. 002 from 0.929 mgd to 0.76 mgd. Discharges from Outfall No. 002 include non-contact cooling water (NCCW) and cooling tower blowdown discharge associated with the existing Plant Nos. 2 and 3 industrial process operations. The applicant is also requesting a total dissolved solids determination of 15,200 mg/l for the proposed discharge from existing Outfall No. 001. Plant Nos. 2, 3, and 4 will continue to send sanitary wastewater, cooling tower blowdown, and industrial process wastewater off-site to the Leesport Borough Authority WWTP (via the Ontelaunee Township Municipal Authority sanitary sewer system) for treatment and discharge to the Schuylkill River. The on-site project surface water discharges to the Schuylkill River (Outfall Nos. 001 and 002) are located at approximately River Mile 92.5 - 86.5 (Delaware River - Schuylkill River), in Ontelaunee Township, Berks County, Pennsylvania.
16. Warren County - Pequest River Municipal Utilities Authority, D-1971-096 CP-5. An application for approval of upgrades to the existing 0.5 mgd Warren County MUA Oxford WWTP. Upgrades to the treatment facilities include replacing the existing conventional activated sludge treatment system with a Ludzack-Ettinger process incorporating mixed media filtration. This docket also continues a Total Dissolved Solids (TDS) determination consisting of an effluent limit of 7,000 pounds per day (lbs/day) from the previous docket approval (D-1971-096 CP-4). The WWTP will continue to discharge treated effluent to the Pequest River at River Mile 197.8 - 7.2 (Delaware River - Pequest River), within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in Oxford Township, Warren County, New Jersey.
17. Spring City Borough, D-1974-061 CP-4. An application to renew the approval of an existing discharge from the 0.6 mgd Borough of Spring City WWTP. Effluent limits for the PADEP and DRBC will continue to be based upon an average annual flow of 0.345 mgd. The applicant has also requested approval to construct a chemical feed facility for phosphorous removal. The existing WWTP will continue to discharge to the Schuylkill River at River Mile 92.47 - 41.3 (Delaware River - Schuylkill River) via Outfall No. 001, in Spring City Borough, Chester County, Pennsylvania.
18. Catasauqua Borough, D-1986-032 CP-2. An application to renew the approval of an existing discharge from the 2.25 mgd Catasauqua WWTP and to approve modifications,

including replacement of the disinfection system and parts of the primary digester, as well as the construction of a floodwall. The WWTP will continue to discharge treated effluent to the Lehigh River at River Mile 183.66 - 20.2 (Delaware River - Lehigh River) via Outfall No. 001, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in the Borough of Catasauqua, Lehigh County, Pennsylvania.

19. Antietam Valley Municipal Authority, D-1987-045 CP-4. An application to rerate the hydraulic design flow of the Antietam Valley Municipal Authority WWTP from 1.225 mgd to 2.45 mgd. No physical modifications to the existing WWTP are proposed. The WWTP will continue to discharge to an unnamed tributary of the Antietam Creek, a tributary of the Schuylkill River, at River Mile 92.47 - 66.1 - 4.4 (Delaware River - Schuylkill River - Antietam Creek), in St. Lawrence Borough, Berks County, Pennsylvania.
20. Cinnaminson Sewerage Authority, D-1992-030 CP-2. An application to renew the approval an existing discharge from the 2.0 mgd Cinnaminson WWTP and to approve upgrades to the WWTP headworks. The WWTP will continue to discharge treated effluent to Water Quality Zone 2 of the Delaware River at River Mile 108.82, in Cinnaminson Township, Burlington County, New Jersey.
21. Evonik Degussa Corporation, D-1996-011-3. An application to approve modifications to the existing Evonik Degussa IWTP. The proposed modifications include: 1) the expansion of the IWTP from 1.15 mgd to 1.8 mgd; 2) adding new treatment facilities and equipment, including a sump, heat exchanger, static mixer with polymer injection, cyclator, and neutralization tank; and 3) the construction of a new outfall that will feature a multi-port diffuser. The application includes a request for a Whole Effluent Toxicity (WET) Alternative Mixing Zone (AMZ) and continues a Total Dissolved Solids Determination providing for a monthly average effluent concentration limit of 30,000 mg/l and daily maximum effluent concentration limit of 32,000 mg/l. The IWTP will continue to discharge treated industrial wastewater effluent to Water Quality Zone 4 at River Mile 82.2 in the City of Chester, Delaware County, Pennsylvania.
22. London Grove Township Municipal Authority, D-2008-033 CP-2. An application to modify the DRBC approval of the Conard Pyle WWTP. DRBC Docket No. D-2008-033 CP-1, issued on December 10, 2008, approved the 0.607 mgd lagoon and spray irrigation facility referred to as the Conard Pyle WWTP. The modification consists of a reduction in hydraulic capacity to 0.143 mgd, in connection with a decision to remove from the project and not to construct a portion of the previously approved spray irrigation facilities. The project is located in London Grove Township, Chester County, Pennsylvania.
23. Deb-El Food Products, D-2009-036-2. An application for approval to construct a 0.05 mgd IWTP that will discharge to the Neversink River at River Mile 253.64 – 28.7 (Delaware River – Neversink River), within the drainage area of the section of the non-

tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters, in the Town of Thompson, Sullivan County, New York.

Mr. Muszynski recommended that the Commissioners approve dockets 14 through 23, consisting of renewals involving substantive changes. Hearing no further questions or comments on these dockets, Ms. Heffner asked the Commissioners for a motion to approve them. Mr. Eaton so moved, Ms. Siekerka offered a second and hearing items 14 through 23 were approved by unanimous vote.

C. *New Projects (hearing items 24 through 27)*. These four projects comprised new discharges or withdrawals or constituted projects new to the Commission.

24. Reading Alloys, Inc., D-2011-023-1. An application to approve an existing groundwater and surface water withdrawal to supply up to 0.57 mgm of groundwater to the applicant's manufacturing plant from existing Wells Nos. 3 and 4 and 14.5 mgm of surface water from existing Intake No. 1 for potable water and industrial cooling purposes, respectively. Intake No. 1 withdraws water from an on-site pond. The project is located in the Spring Creek Watershed in Heidelberg and South Heidelberg Townships, Berks County, Pennsylvania.

25. Dorney Park and Wildwater Kingdom, D-2012-009 -1. An application for approval of an existing GWD to supply up to 11.89 mgm of water to the applicant's amusement park from existing Wells Nos. 1, 4, 5, 7 and 8 for irrigation, non-contact cooling, water rides, and water features. The project wells withdraw water from the Allentown Formation and are located in the Cedar Creek Watershed, within the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters, in South Whitehall Township, Lehigh County, Pennsylvania. The existing withdrawal was not previously approved by the Commission.

26. Covanta Plymouth Renewable Energy, LP, D-2012-016 CP-1. An application to approve the existing Covanta Montgomery County Resource Recovery Facility (MCRRF), which derives energy from waste, and to incorporate the facility into the Comprehensive Plan. The application also requests approval of the subsidiary water allocation for the facility of up to 22.73 mgm provided by Aqua Pennsylvania (Aqua PA). The water is used for industrial processes, fire suppression and primarily industrial cooling purposes associated with power generation. The Covanta MCRRF is located in Conshohocken Borough, Montgomery County, Pennsylvania.

27. Philadelphia Gas Works, D-2012-017 CP-1. An application for the approval of an existing surface water withdrawal (SWWD) of up to 229.648 mgm from the Delaware River at the applicant's Philadelphia Gas Works - Richmond Plant. The water is used for non-contact industrial cooling and fire suppression purposes. The project intake is located approximately 4,500 feet downstream of the Frankford Creek confluence in the tidal portion of the Delaware River in the City of Philadelphia, Philadelphia County, Pennsylvania.

Mr. Muszynski recommended that the Commissioners approve hearing items 24, 25, 26 and 27, consisting of new projects and projects not previously reviewed by the Commission.

Chairwoman Heffner recognized Richard Schneider of Delaware in connection with hearing item 27, Philadelphia Gas Works (D-2012-017 CP-1). Mr. Schneider said he believed this plant draws in approximately 35 million gallons per day for cooling purposes and fire suppression. He said it was built in 1969 and asked Mr. Muszynski to confirm that it includes a once-through cooling system. Mr. Muszynski did so. Mr. Schneider said he believed the plant should be updated to a closed-cycle cooling system because of known damage it causes to the fishery. He pointed out that 35 million gallons per day is over a billion gallons per year, a withdrawal that harms the Delaware River. Mr. Schneider questioned the use of a constantly circulating fire suppressant cooling system, which is constantly circulating, drawing water from the river and pumping it out again. Mr. Muszynski explained that this system is being changed to a constant pressure system to eliminate constant recirculation. Mr. Schneider said that was great news because less water will be withdrawn, and in turn, fewer fish killed. He suggested again that the Commission and the Commonwealth of Pennsylvania require conversion to a closed-cycle cooling system.

Ms. Noble asked whether any action had been taken by the Commonwealth of Pennsylvania to update 316(b) requirements on the intake for the Philadelphia Gas Works – Richmond Plant. She noted that Pennsylvania had been reviewing many of these intakes. Ms. Heffner responded that the state was in the process of reviewing comments it had received on the project. Ms. Heffner confirmed that Pennsylvania had been paying attention to this issue but she could not speak directly to what might be in the permit.

Ms. Heffner thanked Mr. Muszynski and requested a motion to approve hearing items 24, 25, 26 and 27. Ms. Siekerka so moved and Ms. Heffner seconded her motion. The Commissioners adopted hearing items 24 through 27 by unanimous vote.

Public Dialogue Session. Approximately 15 speakers addressed the Commission during this portion of the meeting. Each was allowed five minutes. A brief summary of their remarks follows.

Delaware Riverkeeper Maya van Rossum spoke about damage to water resources caused by a wave of pipeline construction in the basin to transport natural gas produced from the Marcellus Shale. She delivered a petition urging the Commissioners to exercise DRBC's authority to review additional pipeline projects that are proposed to traverse the Delaware River Basin. The petition asks the Commissioners to amend the Rules of Practice and Procedure to make all natural gas pipeline projects subject to DRBC review and approval before they are allowed to go into construction.

Jim Walsh, the Mid-Atlantic Director of Food & Water Watch, delivered a letter to the Commissioners from 187 consumer, faith, environmental, labor, student, outdoor, business and community organizations in Delaware, New Jersey, Pennsylvania and New York, expressing their concern that drilling to produce natural gas from shale formations in the Delaware Basin would leave the region with a costly legacy of environmental pollution. Mr. Walsh said that in

light of new research on the risks to human health and natural resources associated with natural gas production, the signatory organizations request that the Commissioners re-open comment on the Commission's draft natural gas development regulations and consider a ban on the practice of hydraulic fracturing in the Delaware River Basin.

Tracy Carluccio of the Delaware Riverkeeper Network (DRN) pointed to recent studies (she mentioned reports of the Academy of Natural Sciences, the U.S. Geological Survey and the Nature Conservancy) documenting the impacts of habitat loss associated with the development of natural gas and accompanying infrastructure. She placed on record with the Commissioners a letter DRN filed with the Pennsylvania Wildlife Management and Game Commission supporting protection of certain bat species that have suffered population declines as a result of white-nose syndrome. These species are now under additional pressure from habitat loss, as they depend for their existence on forests overlying the Marcellus Shale, large portions of which are being cleared to accommodate natural gas-related development activity.

Nancy Hettinger, on behalf of the League of Women Voters DE, NY, PA and NJ chapters, appealed to the Commissioners in their capacity as stewards of the Delaware River Basin to put off allowing natural gas development to proceed in the basin pending their thorough review of emerging scientific studies, including a study currently being conducted by the Environmental Protection Agency.

Joe Levine of Damascus Citizens for Sustainability and NY-H₂O, reiterated that the publication of new research warrants delay by the Commission in lifting the moratorium currently in effect for gas drilling in the Basin. Mr. Levine pointed in particular to two recent USGS studies. The first revealed very high levels of radioactivity in Marcellus Shale wastewater samples from Pennsylvania and New York, which Mr. Levine said should intensify concern on the part of the Commissioners about surface spills and leaks to groundwater. The second, an examination of landscape consequences of natural gas extraction in Bradford and Washington counties in Pennsylvania, found that the landscape impacts of natural gas development – in particular the fragmentation of forests – are proving to be much greater than impacts from agriculture, logging or any other human activity in the past. Mr. Levine said that the high quality of the Delaware Basin's water resources is attributable in important part to the high percentage of forest cover in the Upper Basin and urged that the Basin not become part of the natural gas development "experiment" that is having such significant impacts elsewhere.

Doug O'Malley, Interim Director of Environment New Jersey, emphasized the financial investment of the people of New Jersey in preserving natural lands and high water quality across the state, noting that 3 million New Jerseyans get their water from the Delaware River. He also noted the vast investment by the four states and the federal government since the Commission's creation, in restoring the Delaware River to its current high quality. He urged that this public investment and should not now be jeopardized to benefit the natural gas industry.

Barbara Arindell, Director of Damascus Citizens for Sustainability, addressed three topics – Commission terminology, a new ground level methane study, and the risks associated with nano materials used in natural gas drilling. Ms. Arindell said that she and her organization object to use of the term "landowner" to refer solely to property owners who have leased their land for

natural gas, noting that those who oppose drilling also own land, pay taxes and are members of their communities. She asked that the Commissioners and staff use a different term, such as “leasers”, to refer to property owners who have leased their land to drilling companies. [The legal term is “lessors”.] Ms. Arindell said that a highly accurate survey had been performed by Gas Safety, Inc. (GSI) to establish baseline measurements for methane in ground level air in Damascus Township prior to natural gas drilling. She said the survey was noteworthy in that it relied on recently developed technology and new methods. She will submit the report to the Commission when it becomes available. Ms. Arindell added that in Leroy Township, PA, where a natural gas well blowout has resulted in an ongoing release of methane, ground level methane concentrations are elevated and some residents are required to keep the windows of their homes open as a safety precaution even as the weather turns colder. Ms. Arindell expressed concern that the natural gas industry utilizes nano materials, which have been shown by a recent study to kill vegetation by eliminating photosynthesis and the uptake of nitrogen. Such materials are currently unregulated. In further remarks later in the session, Ms. Arindell urged the Commissioners and others to look at documents and images on DCS’s website, which she said illustrate the geologic leakage that accompanies drilling for natural gas. Ms. Arindell suggested that such leakage brings methane and other contaminants to the surface in areas where natural gas wells are drilled and hydraulic fractured.

Bernie Handler of Damascus Citizens for Sustainability (DCS) read a statement by an attorney for DCS advising, based upon a study recently released by the U.S. Geological Survey, that the public health risks associated with radioactivity in natural gas and natural gas wastewater from wells in the Marcellus Shale must be evaluated before the Commissioners consider allowing natural gas extraction from shale to proceed in the basin.

Shirley Masuo, President of the Twin and Walker Creeks Watershed Conservancy and co-founder of Pro-Pike PA, an organization for the betterment of Pike County, chided Ms. Collier for taking the time to visit with lessors in Pike County while failing to hold a similar visit with opponents of natural gas. Notwithstanding that the latter regularly attend Commission meetings, while the former do not, Ms. Masuo said that Ms. Collier’s recent visit rewarded the lessors with a face-to-face exchange, a privilege that opponents of drilling had not enjoyed at Commission meetings in West Trenton. [Ms. Collier promised to schedule a visit with the drilling opponents to correct this omission.] Ms. Masuo alerted the Commissioners to the recent publication of a report for the European Union, calling for tough new regulations for natural gas drilling because of its high risks to human health and the environment. In particular, she noted, that report cited contamination and depletion of ground and surface water, degradation of biodiversity, land and air quality, and the danger of earthquakes. Ms. Masuo urged the Commission at a minimum to require all chemicals used in hydraulic fracturing to be publicly disclosed.

Richard Schneider of Coalition to Protect the Environment furnished a copy of comments he had submitted to the U.S. EPA regarding the issue of impingement and entrainment of aquatic organisms associated with industrial cooling water intakes. In light of what he described as repeated delays by the EPA and the Nuclear Regulatory Commission, he urged the Commission to assume jurisdiction over this issue because of its substantial effect on the river. He stressed that a remedy is available – closed cycle re-circulating systems would reduce water usage and spare billions of fish – and that the regulatory agencies need to require such a remedy, which is

why he has repeatedly come to the Commission, the EPA, and NRC with this issue. Mr. Schneider also asked that the states and federal government fully fund the Commission to ensure its continued viability.

Kate Millsapps of the New Jersey Sierra Club urged the Commission that the best way to protect the 5% of the nation's population that relies on the Delaware River for its drinking water supply, is to impose a permanent moratorium on fracking in the Basin. In the absence of a permanent ban, she asked that the Commission keep the moratorium in place until federal studies are completed and a better understanding of the potential impacts of fracking in the basin is reached; and until the natural gas industry can be made subject to provisions of the federal Clean Air Act, Clean Water Act, Right to Know and Safe Drinking Water Acts from which the industry is currently exempt.

Jim Routner, a Pennsylvania property owner offered three observations or concerns. First, he said he was offended that a Gulf War veteran dressed in army fatigues but working for a natural gas company had attempted to solicit him and other property owners in his community for natural gas leases on their land. He believed the man should have presented himself clearly as an industry representative and not as a veteran of the U.S. Armed Forces. Second, he said that the people who are raising families in their communities in Pennsylvania by and large oppose natural gas development. Third, he expressed concern that natural gas drilling is being financed by a derivative akin to the mortgage-backed security and through credit default swaps. If the price of natural gas were to drop suddenly and this financing structure were to collapse, he fears the Basin could be left with half-built infrastructure and the potential for migration of pollutants into ground and surface waters.

Joan Kerry, a Sister of St. Joseph in Philadelphia and the Assistant Director of Water Spirit, an ecology and spirituality organization, asked the Commission to consider the question, "What spell have we humans come under that causes us to destroy the very systems that have been created to sustain us?" Stressing the interconnectedness of all life, Sister Kerry said that in light of the toxicity associated with fracking fluids, the Commissioners should uphold moral and ethical values by banning hydraulic fracturing to produce natural gas in the Delaware Basin.

Elizabeth Nelson, a mother of three and resident of New Jersey for the past 28 years, said she was afraid she would need to consider leaving the state for fear of air and water contamination from hydraulic fracturing if this activity is allowed within the Delaware Basin. She questioned whether and where New Jerseyans would go when their air and water becomes polluted.

Aaron Stemplewicz of the Delaware Riverkeeper Network (DRN) expressed his frustration that the Commissioners had not yet responded to DRN's request for hearing dated August 9, 2012 and that the Chair said it would not do so before the Commission's meeting in December.

Ms. Heffner expressed her appreciation to all who offered comment that afternoon, and thanked them for their attention and interest in the important matters considered. The meeting was adjourned at 3:55 p.m. with a motion by Ms. Stiller, seconded by Ms. Siekerka and unanimously approved by the Commissioners.

[Editor's Note: A recording of the entire public meeting and a rough transcription of the Public Dialogue portion of the meeting are on file with the Commission Secretary and may be reviewed by appointment.]

/s/ Pamela M. Bush

Pamela M. Bush, J.D., A.I.C.P.
Commission Secretary