



Delaware River Basin Commission

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DRBC WATER MANAGEMENT ADVISORY COMMITTEE MEETING May 17, 2011

COMMITTEE MEMBERS PRESENT:

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| Mary Ellen Noble | Delaware Riverkeeper Network, WMAC Chair |
| Ferdows Ali | NJ Dept. of Agriculture |
| Michael Bleicher* | NJ Dept. of Environmental Protection |
| Janet Bowers | Chester County Water Resources Authority |
| Michael Holt | NYS Dept. of Environmental Conservation (<i>via Conference Call</i>) |
| David Jostenski | PA Department of Environmental Protection |
| George Kunkel | Philadelphia Water Department |
| Stewart Lovell | Delaware DNREC |
| John Mello | US EPA, Region II |
| Bob Molzahn | Water Resources Association |
| Ron Sloto | US Geological Survey |
| Edith Stevens | League of Women Voters-PA |
| Glen Stevens | U.S. Army Corps of Engineers |

*Denotes alternate or non-official member.

DRBC STAFF:

Kent Barr, Planning & Information Technology
David Kovach, Water Resources Management, Geologist/Hydrologist
Kenneth Najjar, Planning & Information Technology
Jessica Sanchez, Planning & Information Technology
David Sayers, Planning & Information Technology
Amy Shallcross, Supervisor, Operations Section

REVIEW OF MINUTES / REVIEW AND APPROVAL OF AGENDA:

The meeting was called to order at 10:00 am by Mary Ellen Noble, Chair of the Committee. The minutes from the 10/20/10 meeting were reviewed and approved without changes. The Agenda was approved with one revision: Water Management / Supply Update was moved up to accommodate the schedule of one of the committee members.

MEMBERSHIP

Mary Ellen Noble will continue as Committee Chair until Senobar Lanigan, current Vice Chair returns and she will then become Chair. Committee members voted George Kunkel to be the next Vice Chair.

AGENDA ITEMS FOR FUTURE MEETINGS

Items for future meetings include work in the areas of Natural Gas, Regionalization and Water Supply Planning. Additionally, a request was made to include presentations regarding the general demographics of DRBC's dockets.

ANNOUNCEMENT

Ken Najjar announced that Chad Pindar had recently been appointed Supervisor of Watershed Planning and Compliance Section and was formerly Supervisor of Project Review. Unfortunately, he was unable to attend the meeting. A short discussion took place regarding Compliance. Ken Najjar explained the basics of dockets and conditions of approval and the use of DRBC's database to assist in tracking.

FUTURE MEETING

The next WMAC meeting has been scheduled for Tuesday, October 18, 2011. Kent Barr inquired if there were any additional Agenda items that the Committee would be interested in including at the next meeting. Mary Ellen Noble, Chair specified Natural Gas and Regionalization.

DRBC NATURAL GAS RULE STATUS/DISCUSSION OF DATA NEEDS

Ken Najjar gave a PowerPoint presentation entitled "DRBC Natural Gas Draft Rule, Water Management Components and Data Requirements". This PowerPoint can be found on DRBC's website on the Water Management Advisory Committee's webpage. The proposed rule was released on December 9, 2010. Thirty six percent of the basin is underlain by Marcellus Shale, including a large portion of DRBC Special Protection Waters. DRBC's water use estimates are based upon the amount of shale in the basin, not necessarily the likelihood of where the drilling will occur. Dave Kovach, DRBC Geologist spoke to the committee about the Marcellus Shale formation, topographic ridge, outcrops, the depth, location and viability of actual production.

Ken Najjar discussed the Objectives of Draft DRBC NG Regulations that will be consolidated into one code Section, Article 7 of the Water Quality Regulations. The proposed rule regulates withdrawals, wastewater disposal and well pads and ancillary infrastructure and is referred to as the three legged stool. The framework of DRBC's Draft Natural Gas Regulations include: Section 7.1 Purpose, Authority, Scope and Relationship to other requirements and rules, Section 7.2 Definitions, Section 7.3 Administration, Section 7.4 Water Sources for Uses Related to Natural Gas Development, Section 7.5 Well Pads for Natural Gas Activities, Section 7.6 Wastewater Generated by Natural Gas and an Appendix: Wording of Financial Assurance instruments.

The committee discussed additional monitoring of quantity and quality for natural gas activities. The rule itself requires groundwater and surface water monitoring in the vicinity of the well pad. DRBC is setting up a surface water monitoring network regionally. Samples have been taken in Pennsylvania and preparation is being made to obtain samples in New York to get a baseline.

DRBC will be working with the partner States to implement its regulations. DRBC regulations will point to partner State's regulations and the Administrative Agreements will facilitate a more efficient process. DRBC does not have Administrative Agreements in place at this time with Pennsylvania and New York but currently has agreements with Delaware and New Jersey. Administrative Agreements with NY and PA will contain natural gas components.

Status of Draft Natural Gas Regulations – Since the last WMAC meeting the following has occurred: Draft rule went out on December 9, 2010, informal meetings were held as well as 3 Public Hearings on Tuesday, February 22, Honesdale, PA and Liberty, NY and Thursday, February 24, Trenton, NJ. There were 377 that testified and 1,000 in attendance at the three locations; the testimony is entered as part of the record. Additionally, the Public Comment Period, which had been extended (30) days from the original date to April 15, 2011, has ended. Approximately 58,000 pieces of correspondence were submitted. The comments are being processed through the National Park's electronic system Planning, Environmental, Public Comment (PEPC). The next steps are to review the comments, prepare comment and response document, and modify the regulations accordingly.

BREAK FOR LUNCH

David Sayers discussed Data Reporting Requirements by DRBC as per the Draft Rule. His presentation also used the same PowerPoint presentation entitled “DRBC Natural Gas Draft Rule, Water Management Components and Data Requirements”. This PowerPoint can be found on DRBC’s website on the Water Management Advisory Committee’s webpage. Tracking of water and wastewater involves all three legs of the stool; water sources (approval by rule), new sources; use on well pads, and wastewater. Natural Gas regulatory program is a catalyst for DRBC to move into paperless reporting and embrace technology upgrades. The program that DRBC has been scoping will also assist with all other types of dockets and reporting to DRBC. In short, DRBC hopes to eliminate paper forms and move to on-line processing for reporting purposes.

On the reporting side a draft Hydraulic Fracturing Report was distributed as a separate handout. The report’s focus is not what happens at the pad site but at each well on the pad site. Each hydrofracking event would generate one of these reports. DRBC built the form based on SRBC’s template. The report requires documentation of all sources of water used for fracking (freshwater, treated wastewater, and reuse of flowback fluids). It is a summary report of water used in hydrofracking and then returned from the well. The time frame for the report captures everything that flows back up within the first 45 days following the completion of the fracking event. After that monthly reports would be submitted on a quarterly basis. DRBC plans to receive this reporting via a web based electronic format.

Committee members questioned whether there were restrictions stipulating that water withdrawn for hydrofracking purposes had to be used within the Delaware River Basin. Dave Kovach reported that DRBC would not necessarily deny an import/export until an application was received, at which time it would be reviewed and a determination would be made.

WATER MANAGEMENT / SUPPLY UPDATES

State Water Plan Activity

(New York) – Michael Holt of NYSDEC (via conference call) reported:

New York currently has statewide authority over public water supply withdrawals. New York has proposed a more comprehensive Water Resources Bill to expand its authority over all withdrawals exceeding 100,000 gpd. There is a specific exemption written in for SRBC and DRBC so that NY would defer to those docket approvals. NY would no longer write water supply permits in either of those basins if the Commission has a docket approval for the same. The Bill has passed the NY Assembly and is to be taken up by NY Senate in the near future. New York also currently has legislation that mandates annual reporting of monthly data for facilities statewide. Michael stated that he would forward data to DRBC so that dockets can be coordinated.

(Pennsylvania) – Dave Jostenski of PADEP reported: PADEP is receiving data online, consisting of monthly values on a quarterly basis within the Ohio Basin through its GreenPort system. Dave noted that three Critical Area Resource Plans are underway (2 in the Ohio Basin, 1 in the Potomac) and expected to be finished in about a year. In the Delaware River Basin, the Little Lehigh and Brodhead watersheds are on the watch list and PADEP will be reporting on them to the Statewide Committee this fall/winter. The report to the Statewide Committee will be based on the results of another run of the screening tool, using more recent 2010 data. Overall data management and data clean-up continue in PA. PADEP is moving to all electronic reporting for all sectors starting in January 2012.

(New Jersey) - Michael Bleicher of NJDEP reported: NJDEP receives most water withdrawal data through online reporting on its regulatory service portal according to the following categories; permittees, registrations, and regular permits. All report monthly diversions. Registrants having the capability to divert 100,000 gallons per day that actually withdraw less report annually. Permittees also report other requirements online specific to their permits. These are items like static water levels in their wells, or in areas around the coast reports include chloride and sodium concentrations due to salt water intrusion concerns. The NJ Water Supply Plan is currently being reviewed and merged with new planning efforts. No public meetings are scheduled yet; NJDEP is hoping to have these in the fall. Additionally, a change has been made this year in terms of the life of the Department's regulations. Normally every (5) years they would come up for renewal, but this year a legislative change was made that allows for that time period to stretch out to (7) years. Rules that would have been expiring or up for renewal now have a (2) year extension.

(Delaware) - Stewart Lovell of DNREC reported: The Delaware Geological Survey (DGS) is no longer maintaining its monitoring well network of 25 years in coastal Sussex County due to budget constraints. Detrimental impacts have not been seen in this area, but it is an area of expected growth. Water utilities in the area have agreed to continue to maintain the monitoring well network. Water supply plan work in Kent and Sussex Counties has been postponed due to budget constraints. DNREC had previously planned to have this work completed by the end of 2011 or early 2012. New work by DGS has reevaluated the Piney Point Aquifer. This will likely affect the City of Dover's withdrawal permit.

Water Supply Charges Update

Amy Shallcross updated the committee on DRBC's rate change to its water charging program. DRBC adopted Resolution 2010-9 on September 15, 2010, which increased the consumptive withdrawal rate from \$60 per million gallons to \$80 per million gallons and the non-consumptive rate from \$0.60 per million gallons to \$0.80 per million gallons. This rate change was effective January 1, 2011. DRBC is also in the process of establishing an Advisory Committee that will review the program.

Regionalization of Wastewater/Public Water Supply in the DRB

Jessica Sanchez briefly explained how DRBC regulations address regionalization of wastewater and public water supply. The Committee expressed interest in working on this topic and a motion was approved for the creation of a Subcommittee. Jessica Sanchez agreed to be the liaison to the Subcommittee and work with the Committee to determine Subcommittee membership.

Water Loss Accountability Regulatory Update

David Sayers and George Kunkel gave an update on recent developments. David noted that several DRBC outreach efforts have taken place since the last WMAC meeting as DRBC is actively reaching out to inform the regulated community of the DRBC rule change which comes into effect in 2012, at which time water systems need to begin to track their losses and perform system audits in accordance with the AWWA methodology. The outreach efforts included a panel presentation at the national AWRA conference in Philadelphia, two regulatory update meetings for the AWWA chapter of southeast PA and NJDEP, a PA Public Utilities Commission meeting and a DRBC Water Audit Workshop that was very well received and attended by approximately 50 water system operators and engineers. George reported on developments from the AWWA Water Loss Control Committee (both DS and GK are members). The committee is working on a paper for the AWWA Annual Conference in Washington DC in June, which will publish the first set of validated water audit data in the AWWA format. Also in process is a leakage classification paper that may be useful for regulatory agencies in assessing utility performance using the metric for real losses of gallons/connection/day, which is a key performance indicator used in the AWWA audit approach.

The regular business of the WMAC Committee meeting adjourned at 2:00 pm. After close of meeting DRBC staff and WMAC State representatives met to discuss coordination and exchange of water use data.