

DELAWARE RIVER BASIN COMMISSION

MEETING OF JULY 13, 2011

Minutes

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

Commissioners Present: Lieutenant Colonel Philip M. Secrist, United States, Chair
Kelly J. Heffner, Pennsylvania, Vice Chair
John Plonski, New Jersey, Second Vice Chair
Angus Eaton, New York
Kathleen M. Stiller, Delaware

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

Commission Chairman Lieutenant Colonel Philip M. Secrist convened the business meeting at 1:30 p.m.

Minutes. The Minutes for the meeting of May 11, 2011 were approved unanimously on a motion by Mr. Eaton, seconded by Mr. Plonski.

Announcements. Ms. Bush announced the following meetings and events:

- *DRBC Regulated Flow Advisory Committee Meeting.* Thursday, August 18, 2011 at 10:00 a.m. in the Goddard Conference Room of the DRBC's West Trenton office building. Staff contact: Hernan Quinodoz, (609) 883-9500, extension 225.
- *DRBC Water Management Advisory Committee Meeting.* Tuesday, October 18, 2011 at 10:00 a.m. in the Goddard Conference Room of the DRBC's West Trenton office building. Staff contact: Donna Barnett, (609) 883-9500, extension 308.
- *DRBC Flood Advisory Committee Meeting.* Wednesday, October 19, 2011 at 10:00 a.m. in the Goddard Conference Room of the DRBC's West Trenton office building. Staff contact: Laura Tessieri, (609) 883-9500, extension 304.

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 July 11, 2011 was 33.11 inches or 10.72 inches above normal. The observed precipitation for the Basin above Trenton for the same period was 32.30 inches or 9.23 inches above normal and for the Basin above Wilmington, Delaware for this period, 23.10 inches or 0.24 inches above normal.

The average observed streamflow of the Delaware River at Montague in June 2011 was 7,821 cubic feet per second (cfs) or 232 percent of the long-term average for the month. For the same period, the average observed streamflow at Trenton was 14,213 cfs, or 173 percent of the long-term average for the month.

For the period of July 1 through July 11, the average observed streamflow at Montague was 10,931 cfs, or 424 percent of the long-term average for the month. The average streamflow at Trenton during the same period was 17,245 cfs, or 280 percent of the long-term average for the month.

In the Lower Basin, as of July 12, 2011, Beltzville Reservoir contained 13.99 billion gallons (bg) usable, or 100.5 percent of usable storage, and Blue Marsh contained 5.66 bg usable, or 100.9 percent of winter pool usable storage. As of July 11, Merrill Creek contained 15.33 bg usable, or 97.7 percent of usable storage.

In the Upper Basin, as of July 12, 2011, Pepacton Reservoir contained 138.314 bg usable or 98.7 percent of usable storage. Cannonsville contained 92.740 bg usable, or 96.9 percent of usable storage. Neversink contained 34.233 bg usable or 98.0 percent of usable storage. The total New York City Delaware Basin reservoir storage was 265.287 bg usable or 98.0 percent of usable storage.

During the month of June 2011, 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) 70 to downstream of RM 54. The normal location of the salt line during June is RM 67, which is 11 miles downstream of the Delaware-Pennsylvania state line.

As of July 11, the salt line was located at RM 69. This location is three miles downstream of the normal location for July.

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

- *Delaware River Sojourn 2011.* The Sojourn in June was a successful event, with an average of about 60 paddlers per day, and for the 17th straight year, a perfect safety record. DRBC was honored because this year is the Commission's 50th Anniversary. BG DeLuca was made admiral for a day, so he became Lord High Admiral Brigadier General DeLuca.

- *DRBC Fiscal Year 2012 Budget.* The Commissioners unanimously approved the fiscal year 2012 budget by means of a roll call vote during their public meeting by conference call on June 28, 2011. A Commission meeting had never before been held by phone, but this was necessary because time was getting short before the start of the new fiscal year on July 1. (A public hearing on the budget was held on March 2 but the budget was not approved on that occasion.) The June 28 meeting was open to the public and was publicly advertised. Two members of the public attended. Ms. Collier explained that the approved FY-12 budget was approximately one million dollars less than the anticipated amount. She added that federal funding continues to be withheld, notwithstanding the diligent efforts of Ms. Collier and the staff to correct this, and the Commission is receiving less from New York State as well. As part of the June 28 meeting, a second resolution was approved, establishing a committee on budget and finance, a move that Ms. Collier said is driven by the economic environment as well as to provide better accountability and public transparency in the budget process. The committee also will facilitate the Commissioners' diving into the agency's fiscal matters, a duty assigned them by the *Delaware River Basin Compact* ("*Compact*"). The committee will be chaired by John Plonski, with Angus Eaton as vice chair, and the other Commissioners as its members. Short summaries of the committee's meetings will be provided by means of reports offered large at the Commission's regularly scheduled public meetings.
- *Public Comment on DRBC Proposed Natural Gas Development Regulations.* The Commission received approximately 69,000 submittals, which included among others, 44,000 form letters, petitions with almost 20,000 signatures and approximately 4,800 unique oral or written submissions. The staff is working diligently to develop responses, including modifications of the rule. Efforts were made to make this as transparent a process as possible. Many of the comments, including transcripts of the public hearings and comments submitted by government officials, businesses and other organizations are posted on the Commission's web site. The rest of the comments can be viewed by appointment at the Commission's offices. A computer loaded with a database containing all the comments has been set up for that purpose.

General Counsel's Report. Mr. Warren reported on the status of two federal court appeals pending in the United States District Court for the District of New Jersey – one involving a water withdrawal docket issued by the Commission to Stone Energy Corporation and the other appealing the Executive Director's Supplemental Determination of June 14, 2010 (amended July 23, 2010) concerning natural gas wells. DRBC counsel filed motions on April 1, 2011 to dismiss both suits for failure by plaintiffs to join the drilling companies as indispensable parties. The Commission is waiting for the court to act.

An appeal was filed some months ago by DuPont Corporation concerning a mixing zone associated with the discharge from the company's Chambers Works diffuser. That appeal has been withdrawn in light of the Commissioners' approval in May 2011 of a docket for the Chambers Works discharge.

Another request for appeal, involving Birdsboro Slag Products Company, was discussed at the Commission's meeting in May. This was an appeal of a termination of Birdsboro's entitlement to withdraw water without paying the Commission's water supply charges. It is a small matter,

since the amount of water used is reportedly very small and the water supply charges amount to less than \$100 per quarter. In May, the Commissioners asked the Commission staff and Birdsboro to develop a stipulation of facts, because the termination was triggered by a stock purchase agreement by which the Commission staff believes a change of ownership and control of the company occurred. Under DRBC regulations, such a change terminates the entitlement. Mr. Warren reported that Birdsboro had not been very responsive to the request for stipulation, and as a consequence, he requested that the Commissioners pass a motion directing Birdsboro to submit the facts and supporting documents regarding corporate ownership and control changes, including the stock purchase of a controlling interest in the company, or suffer dismissal of the appeal. Mr. Plonski so moved, Ms. Stiller seconded his motion, and the motion directing Birdsboro to submit specific information was adopted by unanimous vote.

Mr. Warren noted for the record that he has recused himself from two matters – hearing items 8 and 17 – consisting of dockets for Lansdale Borough (D-1996-045 CP-2) and Upper Gwynedd Township (D-2011-011 CP-1), respectively. Ms. Collier noted that she was recusing herself from these two matters as well.

Mr. Warren reported that New York State Department of Environmental Conservation Commissioner (and Governor Cuomo's first alternate DRBC Commissioner) Joseph Martens had sent a letter to the Executive Director requesting that no docket applications for water withdrawals within New York State associated with high-volume hydraulic fracturing be acted upon by the Commission before completion of New York State's environmental impact review process. Responding to such a request would require a change in direction, since the Commissioners in May of 2010 directed DRBC staff to move forward with applications for water withdrawals throughout the basin, including in New York State, for use in hydraulic fracturing. Mr. Warren offered Angus Eaton, (Governor Cuomo's fourth alternate Commissioner) the opportunity to address this issue.

Mr. Eaton said the Commissioners had not yet responded to Mr. Martens, and he moved that they prepare a response as expeditiously as possible. Mr. Plonski seconded this request, and the motion was adopted unanimously.

Public Hearing: Project Review Applications. William Muszynski of DRBC presented 17 dockets for the Commissioners' consideration in three groups: Category A, consisting of docket renewals involving no substantial changes (hearing items 1 through 4); Category B, consisting of renewals involving significant changes, such as an increase or decrease in an authorized withdrawal or discharge (hearing items 5 through 11); and Category C, consisting of projects not previously reviewed by the Commission (hearing items 12 through 17).

A. *Renewals with No Substantive Changes (hearing items 1 through 4).* The Commission received no comments on these projects.

1. Spring City Borough, D-1974-061 CP-3. An application to renew the approval to discharge up to 0.345 million gallons per day (mgd) of treated effluent through existing Outfall No. 001 from the 0.6 mgd Spring City Borough Wastewater Treatment Plant (WWTP). The existing WWTP will continue to discharge to the Schuylkill River at

River Mile 92.47 – 41.3 (Delaware River – Schuylkill River) in Spring City Borough, Chester County, Pennsylvania.

2. Ambler Borough, D-1975-016 CP-3. An application to renew the approval to discharge treated effluent from the Ambler Borough WWTP at flow rates of up to 8.0 mgd as a monthly maximum and up to 6.5 mgd as an annual average. The existing WWTP will continue to discharge to the Wissahickon Creek, a tributary of the Schuylkill River. The facility is located in Upper Dublin Township, Montgomery County, Pennsylvania.
3. Robeson Township, D-1983-034 CP-2. An application to update the approval of the existing 0.30 mgd Robeson Township WWTP. The Commission originally approved the WWTP by Docket No. D-1983-034 CP-1 issued on September 25, 1984. Docket D-1983-034 CP-2 would update that approval. No modification to the Robeson Township WWTP is proposed. The Robeson Township WWTP will continue to discharge treated wastewater effluent to the Schuylkill River. The facility is located in Robeson Township, Berks County, Pennsylvania.
4. Buck Hill Falls Company, D-2009-001 CP-2. An application to renew the discharge of up to 0.20 mgd of treated effluent from existing Outfall No. 001 at the Buck Hill Falls WWTP. The existing WWTP discharges to Buck Hill Creek, a tributary of the Delaware River, at River Mile 213.00 – 21.11 – 0.50 (Delaware River – Brodhead Creek – Buck Hill Creek) within the drainage area of the portion of the non-tidal Delaware River known as the Middle Delaware, which is classified as Special Protection Waters. The project WWTP is located in Barrett Township, Monroe County, Pennsylvania.

Tracy Carluccio of the Delaware Riverkeeper Network asked whether the Ambler Borough WWTP (the subject of hearing item no.2) is the plant that receives Merck's flow. Mr. Muszynski said it is not.

Mr. Muszynski recommended that the Commissioners approve hearing items 1 through 4, consisting of docket renewals without substantive changes. Upon a request by the Chair, Ms. Heffner so moved, Mr. Plonski seconded her motion, and hearing items 1, 2, 3 and 4 were approved by unanimous vote.

B. Renewals with Substantive Changes (hearing items 5 through 11). Mr. Muszynski presented the next category of dockets consisting of renewals involving significant changes.

5. SPS Technologies, D-1979-088-5. An application for the renewal of a groundwater withdrawal (GWD) project to continue the withdrawal of 8.89 million gallons per month (mgm) to supply the applicant's manufacturing plant from existing Well No. 7 completed in the Wissahickon Formation. The project is located in the Upper Reach Frankfort Creek Watershed in Abington Township, Montgomery County, Pennsylvania within the Southeastern Pennsylvania Ground Water Protected Area.
6. Big Boulder Corporation, D-1985-025-2. An application for the expansion of the Big Boulder Ski Area WWTP from 0.225 mgd to 0.265 mgd. The project WWTP will discharge 0.04 mgd to absorption beds located on-site and will continue to discharge

0.225 mgd directly to an unnamed tributary of Tunkhannock Creek at River Mile 183.66–83.5–5.6–2.5–0.64 (Delaware River – Lehigh River – Tobyhanna Creek – Tunkhannock Creek – Unnamed Tributary) in Kidder Township, Carbon County, Pennsylvania. The project WWTP is located in the drainage area of the section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

7. Morrisville Borough Municipal Authority, D-1987-008 CP-2. An application for approval to renew a discharge of 7.1 mgd from the existing Morrisville Borough Municipal Authority (MBMA) WWTP. MBMA also has requested approval to accept and treat up to 0.2 mgd of pre-treated landfill leachate from Waste Management Inc.'s (WMI's) GROWS/Tullytown landfills. The DRBC approved a pilot program in 2005 (Docket No. D-1988-54-2) that allowed WMI to send up to 0.025 mgd of pre-treated leachate to be treated and discharged from the MBMA WWTP. The pilot program was expanded to 0.07 mgd on May 18, 2007. Additionally, MBMA has requested an increase in its wasteload allocation for CBOD₂₀ from 2,418 lbs./day to 3,831 lbs./day and a determination to allow discharge at an effluent color limit greater than the Commission's standard of 100 units on the platinum cobalt scale. The WWTP is located in Morrisville Borough, Bucks County, Pennsylvania and discharges to the tidal Delaware River in Water Quality Zone 2 at River Mile 133.0.
8. Lansdale Borough, D-1996-045 CP-2. An application to approve an expansion of the service area of the existing Borough of Lansdale WWTP. The project also proposes to increase the permitted annual average flow rate from 2.6 to 3.2 mgd. The service area modification includes the acceptance of up to 1,000,000 gpd of pre-treated industrial wastewater, not to exceed a monthly average flow of 750,000 gpd, from the Merck West Point pharmaceutical facility located in Upper Gwynedd Township, Pennsylvania. No modification of the treatment facilities or increase in hydraulic design flow is proposed. The WWTP will continue to discharge to an unnamed tributary of the West Branch Neshaminy Creek, which is a tributary of the Neshaminy Creek. The project is located in Upper Gwynedd Township and the Borough of Lansdale in Montgomery County, Pennsylvania.
9. Pennsylvania American Water Company – Lexington Woods, D-1998-016 CP-3. An application for approval of a GWD project to supply up to 2.23 mgm of water to the applicant's Pocono District public water supply system from existing Lexington Well No. 2 for emergency and back-up water supply. The total GWD allocation from all 17 system wells will remain limited to 63.55 mgm. Lexington Well No. 2 is completed in the Catskill Formation and is located in the Clear Run Watershed in Coolbaugh Township, Monroe County, Pennsylvania. The site 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.
10. CB Mid-Atlantic Golf Club, LLC, D-1999-036-2. An application for the renewal of a GWD project and to increase from 2.95 mgm to 4.75 mgm the withdrawal from existing Wells Nos. IW-1 and IW-2 in the Cockeysville Marble Formation for irrigation of the applicant's golf course. The increased groundwater allocation is requested in order to avoid the need for water purchases or use of approved surface water withdrawals from

Broad Run Creek. The project is located in the West Branch Brandywine-Broad Run Watershed in West Bradford Township, Chester County, Pennsylvania, within the Southeastern Pennsylvania Ground Water Protected Area.

11. Borough of Dublin, D-2000-011 CP-2. An application for the renewal of a GWD project to continue a withdrawal of up to 6.9 million gallons per 30 days (mg/30 days) to supply the applicant's public water supply from existing Wells Nos. 1, 2, 3, and 5 in the Lockatong Formation and Brunswick Group. The project is located in the East Branch Perkiomen – Morris Run and Tohickon Deep Run watersheds in the Borough of Dublin, Bucks County, Pennsylvania, within the Southeastern Pennsylvania Ground Water Protected Area.

Concerning the draft docket for Morrisville Borough Municipal Authority (MBMA), Mary Ellen Noble of the Delaware Riverkeeper Network said that she recalled that many years ago – probably in the early 1980s – some miles downstream from the Limerick nuclear plant on the Schuylkill River, a business called the Royersfin Laundry laundered some radioactive uniforms. The wastewater generated by this activity was sent to municipal wastewater treatment plants (Pottstown and Lansdale), and 20 years later the sludge from these plants was sent to GROWS Landfill, where Ms. Noble recalled that it reportedly set off the landfill's alarms. Ms. Noble said it was her understanding that although GROWS Landfill was not supposed to accept radioactive waste, it had done so. She asked how anyone could be certain that radioactive leachate from the landfill would not now reach Morrisville's plant. Mr. Muszynski said the incident Ms. Noble described was a one-time event. He noted that it is hard to say with certainty whether the landfill meters will be triggered if radioactivity above a certain point is reached within the landfill. Ms. Noble noted that a truck coming in is supposed to be scanned, but she questioned whether there is any way to detect radioactivity once it reaches the leachate. Mr. Muszynski said the Commission had discussed this issue with the treatment plant operators, and they firmly believe there will be no problem with radioactivity in leachate. He noted that the docket limits the amount of leachate that the Morrisville WWTP can receive from GROWS to 60,000 gallons per day. The total current low flow from the plant is 3.4 or 3.5 million gallons, ensuring tremendous dilution. Mr. Muszynski said he did not have any current numbers on the radioactivity but thought the readings would be low due to the dilution. Ms. Noble asked whether the radioactive sludge had been placed in a special cell and whether GROWS would be monitoring for it.

Barry Sutch of Waste Management is the engineering manager of the Grows/Tulleytown facilities. Mr. Sutch confirmed that a small amount of the sludge was disposed of at the landfill with PADEP and RCRA approval, following extensive testing and evaluations in 2008. It was determined that the waste posed no risk to the public and no exposure risk to employees. At Ms. Noble's request, Mr. Sutch confirmed that the landfill monitors its leachate for radioactivity at a minimum annually, by grab sample.

Ms. Carluccio noted that Morrisville discharges to the Delaware, and there are water intakes downstream. She suggested that Morrisville perhaps should be monitoring for radioactivity in the leachate accepted from the landfills and asked whether the Commission would consider that kind of condition. Mr. Muszynski said that Morrisville and Waste Management had investigated the matter to the Commission's satisfaction. Ms. Carluccio said that a once-a-year grab sample is not an assurance, but only a snapshot.

Jim McCann of Pennoni Associates, consulting engineers for MBMA, said that Morrisville does monitor the leachate from Waste Management for radiation levels. He said that periodic composite samples of leachate entering the plant are taken and the radioactivity measured is equal to normal background radiation levels. In response to additional questions by Ms. Carluccio, Mr. McCann explained that the periodic monitoring is not required by PADEP and is not a permit condition; rather it is performed on Morrisville's own initiative to ensure leachate coming into the plant will not affect any plant operations.

Ms. Noble asked Mr. Sutch how often radiation at any level is found through monitoring by the landfill. Mr. Sutch said he did not have all the details but the exposure risk is so small that it is less than the exposure to an individual who walks into the granite building housing the DEP. He said that this low level is reflected in the facility's annual monitoring reports. Mr. McCann said that radioactivity testing results are not reported on-line by the Morrisville plant but are reported to PADEP and are public records.

Concerning hearing item number 8, Lansdale Borough (D-1996-045 CP-2), James Barth asked about use of the term "pre-treated" in describing wastewater sent to the treatment facility. He asked who pre-treats Merck's wastewater. Mr. Muszynski explained that Merck pre-treats the wastewater consistent with federal Clean Water Act requirements. U.S. EPA Region 3 is the pre-treatment authority in the region and would have the approvals and related records.

Mr. Muszynski recommended that the Commission approve the seven dockets consisting of renewals involving substantive changes. On a motion by Mr. Plonski, seconded by Ms. Heffner, hearing items 5, 6, 7, 8, 9, 10 and 11 were approved by unanimous vote.

C. *New Projects (hearing items 12 through 17).* These six projects comprised new discharges or withdrawals or constituted projects new to the Commission.

12. Blue Mountain Ski Area/ Tuthill Corporation & Aquashicola-Little Gap, D-2010-026-1. An application for approval of a surface water withdrawal (SWWD) and GWD project to withdraw up to 300 million gallons of water annually from November through March from two existing surface water intakes located on Aquashicola Creek for the purpose of snow-making. Additionally, this project approves the allocation of 1.49 mgm from Wells Nos. 1 and 2 to supply the ski area with potable water. The existing project withdrawals were not previously approved by the Commission. The project is located in the Aquashicola Creek Watershed in Lower Towamensing Township, Carbon County, Pennsylvania. The site 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.

13. Lakeview Estates Homeowners Association, D-2010-032 CP-1. An application for approval of the existing Lakeview Estates WWTP, for which the Commission has not previously issued a docket. The WWTP will continue to discharge up to 54,000 gallons per day (gpd) of treated sewage effluent to an unnamed tributary of the Lehigh River. The facility is located in Lehigh Township, Wayne County, Pennsylvania within the

section of the non-tidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

14. Aqua Pennsylvania, Inc., D-2010-042 CP-1. An application for approval of a GWD project to supply up to 6.95 mgm of water to the applicant's public water supply system from new Well No. 1A and existing Wells Nos. 1, 2, 3A, 3B and 8. The project wells are completed in the Catskill Formation and are located in the Kleinhans and Wallenpaupack creeks watersheds in Palmyra Township, Pike County, Pennsylvania. The project is located within the drainage area of the section of the non-tidal Delaware River known as the Upper Delaware, which is classified as Special Protection Waters.
15. Bethany Children's Home, D-2010-043-1. An application for approval of a GWD and exportation project to supply up to 6.0 mgm of water for bottled water operations from new Wells Nos. PW-A and PW-B. Withdrawn water will be exported from the Delaware River Basin to the DS Waters bottling facility in Ephrata, Pennsylvania, within the Susquehanna River Basin. The project wells are completed in the Epler Formation and are located in the Tulpehocken Watershed in Heidelberg Township, Berks County, Pennsylvania.
16. Covanta Delaware Valley Resource Recovery Facility, D-2011-003 CP-1. An application to approve Covanta Delaware Valley, LP's Delaware Valley Resource Recovery Facility (DVRRF), which derives energy from waste, and the subsidiary water allocation for the facility of up to 62.372 mgm from the Chester Water Authority (CWA). Additionally, the applicant seeks approval to construct an influent pipeline and related polishing treatment facility that will accept up to 62.372 mgm of treated wastewater effluent from the Delaware County Regional Water Quality Control Authority (DELCORA) WWTP located nearby, in order to provide a new source of water for the DVRRF. The applicant is seeking approval to continue to use a combined total of 62.372 mgm from the two sources. The water is used for cooling purposes associated with power generation. The DVRRF is located in Chester City, Delaware County, Pennsylvania.
17. Upper Gwynedd Township, D-2011-011 CP-1. An application for approval to construct a pump station and associated sewerage interceptor and force main, to be owned and operated by Upper Gwynedd Township, for the purpose of conveying wastewater from the Merck West Point pharmaceutical facility located in Upper Gwynedd Township to the Lansdale Borough WWTP. The applicant proposes to construct a pump station, 3,260 linear foot gravity sewer interceptor, and 8-inch ductile iron pipe force main. The pump station and associated interceptor and force main will be designed to convey up to 1,000,000 gpd of pre-treated industrial wastewater, not to exceed a monthly average flow of 750,000 gpd, from the Merck West Point pharmaceutical facility (also located in Upper Gwynedd Township) to the Lansdale Borough WWTP for treatment and discharge to the West Branch Neshaminy Creek, a tributary of the Neshaminy Creek. A separate application has been filed concurrently by the Borough of Lansdale (*see* DRBC Application No. D-1996-045 CP-2) for approval to revise its service area and to accept the additional flow. The proposed facilities are to be located in Upper Gwynedd Township, Montgomery County, Pennsylvania.

As to hearing item number 13, Lakeview Estates Homeowners Association (D-2010-032 CP-1), Mr. Plonski inquired about the history of the facility, and in particular why this existing facility had not previously undergone Commission review. Mr. Muszynski explained that when the Commission designated as Special Protection Waters (SPW) the portion of the main stem Delaware River known as the Lower Delaware River, it inventoried all of the treatment facilities within the area draining to this reach. Such an inventory was essential because the DRBC has responsibility for the modeling used to determine effluent limits for discharges to tributaries of SPW. In the process of completing its model for the Lehigh River, staff has come across facilities that exceed the threshold for Commission review. It is possible that at one time a facility was discharging below the 50,000 gpd and the operator believed this level was below the review threshold set forth in the Commission's Rules of Practice and Procedure (RPP). In waters draining to SPW, however, the threshold drops to 10,000 gallons per day, so the threshold changed for a substantial part of the basin when the Lower Delaware was permanently classified as SPW in 2008. Mr. Muszynski noted later that the RPP review threshold of 50,000 gpd is based on a facility's design flow, not its actual flow, so the Lakeview facility technically was subject to Commission review prior to 2008. Normally, staff does not require facilities to undergo review unless or until the owner or operator proposes to expand or undertake improvements. Because this particular facility exceeded the 50,000 gpd threshold, however, it was directed to apply for a docket. Other facilities will be required to undergo Commission review as staff continues this process.

Mr. Muszynski recommended that the Commissioners approve hearing items 12, 13, 14, 15, 16 and 17, consisting of new projects and projects not previously reviewed by the Commission. In the absence of further comments or questions, Chairman Secrist requested a motion for approval of the six dockets. Mr. Plonski so moved, Ms. Stiller seconded his motion, and hearing items 12, 13, 14, 15, 16 and 17 were approved by unanimous vote.

Public Hearing: Resolution Amending Resolution No. 2010-11 to Increase the Authorized Amount of the Commission's Contract for Management of Comments Received on a Proposed Rulemaking Concerning Natural Gas Development. Mr. Gore explained that the proposed resolution would amend Resolution No. 2010-11 adopted on December 8, 2010. In that resolution the Commissioners authorized a contract value of \$42,000 for the firm EA Engineering, Science & Technology, Inc. for professional services to assist in the management of the comments submitted for the proposed natural gas development regulations published by the Commission in December 2010. In anticipation of the notice of proposed rulemaking, the Commission in 2010 obtained permission to utilize the National Park Service's Planning, Environment and Public Comment (PEPC) system to gather comments on the proposed regulations electronically. At that time, a request for proposal was issued because the staff anticipated that some expertise with this system would be needed. EA was the selected firm. The Commission staff based the RFP on an assumption that approximately 10,000 written comments and several hours of written testimony would be submitted on the draft rules. Commission staff has received significantly more comments than anticipated, the bulk of which were filed in paper form rather than electronically. This changed the dynamics of the work effort, and it appears that the cost to manage the comments will be \$73,000, an increase of \$31,000 over the initial authorization.

Karina Wilkinson of Food & Water Watch, a national consumer advocacy group, said her organization opposes privatization of natural resources and is calling for a national ban on fracking. F&WW also opposes outsourcing in general and opposes the contract with EA on the grounds that contracting with private companies in the view of F&WW generally results in limited accountability and oversight and can result in the loss of public access to documents via the Freedom of Information Act. Ms. Wilkinson requested that DRBC staff review the comments directly although this might take longer. She noted that F&WW also objected to publication of the draft regulations before the U.S. EPA impact study on hydraulic fracturing is completed. She pointed out that since the Commission published its draft regulations in December 2010, the New Jersey legislature had passed a ban on hydraulic fracturing in that state, North Carolina's governor had vetoed a bill that would have allowed fracking there, and the nation of France had banned fracking in that country. Ms. Wilkinson requested that the Commission staff review all of the comments themselves.

Ms. Collier repeated her earlier remarks to the effect that one of the steps DRBC has taken to ensure transparency is to post as many as possible of the public comments on the Commission's web site and to make all of the documents available on a searchable database for members of the public to inspect by appointment. She said that EA is simply organizing the submissions so that staff can respond to them. DRBC staff is writing all of the responses. Ms. Wilkinson said that she was looking for transparency even in the mechanical process to ensure as much transparency as possible.

Tracy Carluccio of the Delaware Riverkeeper Network said that investing in tools to help the public be heard is worthwhile, and the lesson to be taken from the Commission's experience – and specifically from the 69,000 comments DRBC received – is that the Commissioners should not underestimate the level of the public's interest, particularly in natural gas. On this issue, she said there is very deep public concern. She encouraged the Commission to spend whatever it needs to spend to document and make these comments available to the public. She added that she had clicked through the Commission's comments web page and found it to be thorough and well organized – more than most agencies do.

Hearing no further comments or questions, Colonel Secrist requested a motion to approve the resolution amending Resolution No. 2010-11 to increase the authorized amount of the Commission's contract for management of comments received on a proposed rulemaking concerning natural gas development. Mr. Plonski so moved, Ms. Stiller seconded his motion, and Resolution No. 2011-09 was adopted by unanimous vote.

Public Hearing: Resolution Authorizing the Executive Director to Enter into Contracts for the Analysis of Water and Wastewater Samples for Acute and Chronic Toxicity to Aquatic Life in Headwater Streams in the Upper Delaware Basin and for Associated Chemical Parameters. Dr. Fikslin explained that the proposed resolution would authorize the Executive Director to enter into a contract for analysis of water and wastewater samples from headwater streams in the Upper Delaware to test their toxicity to aquatic life. The Commission is using the time before natural gas drilling commences in the basin to gather baseline data. Programs currently underway involve the collection of data on temperature, conductivity and sensitive macroinvertebrates. The proposed toxicity analysis is intended to supplement these studies. The

analysis will be performed on surface water samples from areas representative of urban, suburban, forested and agricultural land use types in the Upper Basin where natural gas development is anticipated. Initial testing also will be performed on natural gas flowback and production water, including range-finding tests. The proposed study, developed by the Stroud Water Research Center laboratory in Avondale, PA, is unique in that it will utilize a non-standard test species – mayflies. Stroud has used mayflies for approximately 25 years to study temperature effects on the species in Pennsylvania. Funding for the study consists of U.S. EPA Section 106 grant proceeds in an amount not to exceed \$35,000.

Iris Marie Bloom inquired about the timeframe of this testing process. Dr. Fikslin said that surface water sampling would occur from late August through early September. A mayfly species available in the fall will be used. DRBC is currently speaking with a company about the availability of flowback and production water samples to study how characteristics of the flowback water change over time, but those details are still being worked out. Results are expected as early as the end of the year, depending on the availability of the flowback and production water samples.

Hearing no other comments or questions, Colonel Secrist requested a motion to approve the resolution authorizing the Executive Director to enter into contracts for the analysis of water and wastewater samples for acute and chronic toxicity to aquatic life in headwater streams in the Upper Delaware River Basin and for associated chemical parameters. Mr. Eaton so moved, Ms. Stiller seconded his motion and Resolution No. 2011-10 was adopted by unanimous vote.

Public Dialogue Session. Colonel Secrist established a five-minute time limit for each speaker. Speakers included Elaine Reichart, James Barth, Tracy Carluccio, Mary Ellen Noble, Iris Marie Bloom, Karina Wilkerson, Madeline Ruly and Betty Tatham. A rough transcript of their remarks and dialogue with the Commissioners is provided as an Attachment.

At approximately 3:20 p.m., after all those who wished to speak had had an opportunity to do so, Lieutenant Colonel Secrist requested a motion to adjourn the meeting, Ms. Stiller so moved, Mr. Plonski seconded her motion and the Commission Meeting of July 13, 2011 was adjourned at 3:20 p.m.

/s/ Pamela M. Bush

Pamela M. Bush, Esquire
Commission Secretary

ATTACHMENT

Rough Transcript of Public Dialogue, Meeting of July 13, 2011

Elaine Reichart. There are four topics on which I would like to ask questions and hear comments. The first is on fracking. This is more of a comment than anything else. Fracking is either safe or it's not safe. I hope it is safe but I am very disturbed that it seems that within two watersheds – Syracuse and New York City – the people of the cities have preferential safeguards as opposed to everyone else who lives in the watershed. I don't understand how it's good enough for the people outside of New York City and outside of Syracuse but it's not good enough for the watersheds in those other areas. It either is or it isn't safe. Do you want to address that now?

Commissioner Eaton. I can address it in part. I'm sure there's a fuller answer but the decisions on Syracuse and New York were colored very particularly by filtration avoidance determinations and the possibility to allow for drilling within those watersheds could jeopardize those filtration avoidance determinations. I think it is not a simple issue and it's more than just "safe" or "not safe" and very clearly the filtration avoidance determination comes into play when those decisions were made.

Ms. Reichart. My next question is about the hydroelectric project that New York City intends on pursuing. That's in the basin and my question to the Commissioners here is what is your plan on addressing this issue? When will you commence with that plan and also include stakeholder involvement? Do you have plans to date to have that project be addressed by you? From a Commission perspective, this is important to the whole basin and it's ongoing. New York City DEP is achieving milestones on a very slow and steady basis. I don't know how tapped in you are to this but you really, really need to be tapped into it, and I urge you to start scheduling meetings to discuss this, to have the people work on this, to devote resources to it and to hold stakeholder meetings on this because it's going to affect us all.

Ms. Collier. We do have updates on that project.

Mr. Muszynski. We've been aware that it's not only New York City but there are other people who have proposed to use New York City reservoirs for that purpose. But until they actually have a plan – and we've been asking for periodic updates on it – but until they actually have a plan, there's nothing to review.

Ms. Reichart. I disagree. I'm getting email notices that there is a meeting coming up to discuss some of the issues concerning hydroelectric plans and it is sent out to stakeholders. The DRBC is the *de facto* stakeholder for the basin. Are you involved in that meeting?

Mr. Muszynski. I was not but I will address that now that I know there's a meeting. We have been kept periodically involved – at least informed – as to what they are considering doing, but until they have something more concrete there's not a lot of reason to spend a lot of time working on it. Some of these plans don't go anywhere.

Ms. Reichart. I understand. What I would like to request is that you make this a status report of what's going on with this project at future DRBC meetings.

Mr. Muszynski. If there's a reason to provide status, we will provide status.

Ms. Reichart. Regarding the tunnel closings due to the aqueduct repairs, I'm aware of two proposed closings – one in October of this year and another sometime in 2014. Both are disturbing. If you could address them and let the public know now, since it's only three months away, how long the tunnel is

going to be closed. How empty will the reservoirs be? Is there a plan in place now? Have you worked on it? Are you involving the public? Are they going to have a say on how the reservoirs are going to be lowered to provide safety from the fact that there will be no more diversions every day? Will you hold a public hearing or some kind of meeting to get feedback from stakeholders so you know what they are thinking about, what the needs are – not only a flood mitigation perspective, but a conservation perspective, a water supply perspective, and a water quality perspective?

[Ms. Reichart had exceeded her time, and the Chair invited the next speaker to comment.]

James Barth. I prepared six photographs. I drive frequently from New York to my home in Berlin Township and back and I noticed, since I take Route 97, a lot which runs between Port Jervis and Hancock that recently – the clear-cut strips you see on the first page must be the Tennessee Pipeline. On the second page is Hawk's Nest, which is the premier scenic viewing place. On page two you see that kind of bald spot, but other than that you see solid mature forested landscape, which is how it goes from Port Jervis up to Hancock. Following this morning's presentation by Jerry Kauffman I just want to reiterate that it seems, to put it mildly, insane to think that this type of area or the forested areas of the Delaware River Basin could be subject to any type of disturbance on the order of whether it's one pad per square mile or two pads per square mile. All of this is undecided. It also depends on what target zone is the target gas-bearing zone, whether it's Utica, Marcellus, Oriskany or Onondaga formations, whether it's 18,000 projected wells or 3,000 pads that might turn into whatever develops. I'd like to just reiterate that when I am at Hawk's Nest and I look north like that, that one bald spot jumps out like a sore thumb. The thought of seeing hundreds, dozens, taking up that viewscape, landscape, watershed – all the things that Jerry Kauffman explained this morning about the benefits – to allowing the development of five-acre well pads, compressor stations, feeder-pipelines, pipelines and roads, to destroying that type of habitat is beyond my comprehension. I hope that we would start to consider, contrary to what Elaine brought out, that what New York State is doing for whatever reasons, and they're going to get a lot of flak for that I'm sure, that after their two-or-so-year period of review and without a cumulative environmental impact study, they have come out with changes from the proposed SGEIS in 2009 to the current one in which they are deciding to protect and to ban specific areas from development of this type. I urge the Commission to give serious attention to that matter and go back to whatever was proposed at the beginning but then was softened – you were originally going to do tiers and that's been kind of brushed away. If you have the ability to restrict areas, if you have New Jersey proposing to restrict development in the study period, if you have the ability to restrict or govern the pace of development, that's an important aspect too, but the main thing is if you were to perform a cumulative environmental impact study this is the type of thing that one would come out with, which is a better understanding instead of what we are doing and what we have been doing.

There is an article at the end of my report by Laura Legere, and it describes the increased incidence of documented gas migration within northeast Pennsylvania. And this article – experience I should say – what we are experiencing with the drilling backs up the Hazen & Sawyer report to the New York City DEP in December of 2009, in which they describe through New York State's records that the watershed area is filled with geology of brittle structures, pre-existing faults, just riddled with these types of naturally occurring pathways for this type of gas migration to occur. Paul A. Rubin has taken that information and applied it to the entire Appalachian Basin, and I'm a firm believer that this is true. This article reports on the increased incidence that we are experiencing in Bradford County and backs that up, and I hope you look further into that. I have a colleague, Michael LeBron, who has been deeply involved in the incidents in Tioga, Potter, Bradford and Susquehanna counties. By our count, households that have been impacted by this gas migration amount to about a minimum of 235. Now that's households, not migration incidents, because one incident could impact 39 or 25 or however many households. But to me, to drill in Bradford County where he documented 81 such incidents since January 2009, if 658 wells

have been drilled, 81 to 658 is a heck of a high rate of people who have their own filtration avoidance determinations.

I take my water right out of the ground and if a gas well can be 200 feet from me I'm in a lot more danger than the people in New York City, and I don't want to minimize that but I do want to optimize the danger that we as individual homeowners face.

Tracy Carluccio. I had a comment related to the budget meeting. I understand that Mary Ellen Noble was there on behalf of the Delaware Riverkeeper Network. I understand that the budget was approved but that Mr. Plonski from New Jersey put a stipulation on his approval – his “aye” vote – and that stipulation was something along the lines of if the natural gas regulations are not put forward or put on the agenda for the next meeting of the DRBC in September that New Jersey would withhold its quarterly payment, something along those lines. I would like to ask about that. I find this to be utterly shocking that a member of the Commission would – I looked up the word “extortion” to find out what “extortion” means, and it says “to make something happen by force”. It certainly reinforces some very bad New Jersey stereotypes if you know what I mean in terms of strong-arming. Could you please address that for us because it's just truly mind-blowing.

Commissioner Plonski. The State of New Jersey voted “aye” on the budget with one stipulation, and that was that it pass the budget with the understanding that if the natural gas regulations as promulgated by the DRBC are not scheduled and approved in September, that New Jersey reserves the right to review its next quarterly payments to the DRBC.

Ms. Carluccio. Is that a position that the governor who you represent okayed? What was the process that led New Jersey to make such an extraordinary demand?

Mr. Plonski. From New Jersey's viewpoint we've always said from the beginning that we're interested in two main things with natural gas regulations – the paramount oversight of the integrity of the Delaware River and its tributaries, but that we were never interested in impeding the development of the natural gas situation in our neighboring state. We've said as other commissioners have over the course of the last year that we're interested in moving this process forward and do not want to delay it any further, and we think we're getting very close to promulgating this in September and we think we're ready.

Ms. Carluccio. Sir, I don't want to belabor this too much, but shouldn't the decision about natural gas regulations and when they're going to be put forward in final form be based on the comments that were received and the processing of those comments however long it takes on the part of the staff of the Commission? Shouldn't it be driven by the substance of the process, not by somebody strong-arming and saying if you don't get them out you're not going to get your money? What kind of a public policy is that – that a state would tell a commission making really important public policy decisions that money should drive the process, that they might lose jobs, that their doors might be partly closed because New Jersey does not meet its obligation to pay for the cost of running the commission that's doing this review?

Mr. Plonski. I'm not sure if that's a question.

Ms. Carluccio. Yeah, well I'm just astounded. I don't know if other people find it astounding that a state would actually tell a commission doing its work that it must arrive at a decision by a certain date or it will withhold its funding. I have never heard – I've heard of backroom deals like this, I've heard of strong-arm tactics in the past, I've heard of cigars in the backrooms of agencies other times doing this kind of thing, but in today's modern age it's not based on science and public policy and driven by however long it takes to do the right job and get that job done for our basin, 15 million people relying on this water supply. I just find it shameful and I'm embarrassed I'm from New Jersey.

Mary Ellen Noble. Sorry Mr. Plonski, but I've got to ask you, I think I've heard earlier that you're going to be Chairman of the Commission's Finance Committee, so if you don't pass something in September and it triggers some sort of budget cutback, you're the guy who gets to decide or leads the decision about what gets cut?

Mr. Plonski. Well, certainly as chairman of that committee as we have formulated it, it's definitely up to the other Commissioners to review the entire budget on an ongoing basis to see that the monies are available to continue on. As Carol said earlier, we're a million dollars short of this year's budget – not because of New Jersey – New Jersey put up its fair share and its full share.

Iris Marie Bloom. I've spent about six days interviewing people who are impacted by gas drilling and methane migration who were also having other substances turning up in their drinking water in Pennsylvania. There are a lot of experiences that I'm afraid that people who are not in the field interviewing people who are directly impacted, I think you don't have any idea how this turns people's lives upside down and what it's doing to people. There's the McMickens on Paradise Road in Bradford County who had to be evacuated in the middle of the night. They are one of a series of families that has had methane migration, but they've also had butyraldehyde show up in their main water tests. We don't know where that's coming from but we do know that they were evacuated in the middle of the night because the methane levels were so explosive. There are levels of stress, depression and anxiety in these families and we're talking about hundreds of families at this point, because you can't sleep at night if you don't know if your home is going to blow up. That's just a little bit too stressful. I interviewed people in Dimock, Pennsylvania. I thought they were being taken care of and that's not the case. They're still living with contaminated water. The lawsuit hasn't been resolved. Uranium is showing up. Weapons-grade uranium is showing up in people's well water. There is a woman in southwestern Pennsylvania who can't go public so I cannot say her name, but her family is being destroyed right now by gas drilling. She has a flowback pit one-half mile from her home. Her son was sick for years and repeatedly hospitalized. All three of them have turned up with high levels of arsenic in their blood. The horse died, the dog died after one litter of puppies was stillborn. The goat aborted two kids and then died. When the goat was autopsied, the goat had ingested arsenic and ethylbenzene, one of those chemicals used in fracking.

What I'm trying to tell you is that between the holes and the fracking pit plastic liners and between the practices the drillers are using with drilling mud spills and drilling cutting spills and the vertical drilling stage, let alone the fracking stage, people's health is being endangered. We're seeing the impacts right now. These are the canaries in the coal mine. and I'm afraid these stories are not being widely told because of the complications with nondisclosure agreements on the one hand and litigation on the other. And to try to get to the end of the process where you have absolute proof of what it was that made someone vomit on all fours like Pat Franelli in Dimock or like the woman who was taking her sick children to the hospital. She's been forced out of her home on doctor's orders and she has no place to go. She has her son living in one home, her daughter living in another and she's living in another so they not only don't have water but they can't breathe the air. In that case Range Resources took 20 sample gallons for testing for arsine gas. Of all of the contaminants you've heard of – barium, high methane levels – that's a new one. People don't even know we should be testing for arsine, which is an odorless, colorless gas that if you look at the ATSDR web site, it's a systemic poison. It causes abdominal pain. In this family, multiple family members had abdominal pain for over a year and there are other people getting multiple symptoms and we're not even at the beginning of studying this. I simply want you to know the health impacts of this and I want to thank you for everything you can do to take your time and keep more people safe and protect public health.

Karina Wilkerson. As a New Jerseyan I would just like to ask the New Jersey Commissioner to please not exercise that ability to cut back the quarterly budget for the Commission, and I am hoping that the Commission will take the time to review. You're saying on one hand you have to pass a resolution to get \$31,000 more to even just sort the public comments. I don't see why you're saying you think you are close to promulgating the rules if you're still just getting the budget to go through the 69,000 public comments. We'd like to see those public comments taken into account. We'd like to see the scientific studies taken into account so I am appealing to the Commission as a whole to take the time to do this properly and to not allow New Jersey and Pennsylvania to rush these things through. Please do not cut the budget.

Madeline Ruly. I was raised in Pennsylvania but born in New Jersey and I'm just so ashamed that this kind of thing would be done. I've never been ashamed to be a New Jerseyan before – I'm proud of it but I cannot believe in the impassioned words that were said, that this is extortion. You've got to put science first, please, and not allow something like this to destroy the health and well-being of people. Your job, your mission according to your mission statement is "to protect the waters for generations to come," and people are being hurt right now. Don't allow that. Why isn't this public? Why don't we know this? Why is this suddenly coming out now? Issue a press release that New Jersey is saying this, or promoting this, or holding back their approval. This is the kind of thing the public needs to know about. Thank you.

Betty Tatham. I can't think of anything more important than to wait until the facts are in. I don't believe New Jersey, which has nothing to gain but dirty water, should be the one to call the shots and say "the rest of you can go ahead and get poisoned because you're going to have the drilling in your states; we want this over with; we just are sick and tired of it; we want it done." Well that's not how science works. That's not how a democracy works. We're still a democracy. We'd like to keep it that way. We're grateful that you didn't vote on any withdrawals before you look at those regulations and I think you need to look at them. We did a lot of work to get you the facts and to tell you how people feel. The people have a right to say how they feel. So please take your time, look at those comments and pay attention to them. Thank you.

Elaine Reichart. Getting back to the tunnel closures, I'd like to talk about the one in 2014. It's my understanding that New York City DEP is going to put in siphons as they have done in the Gilboa Dam. There is no talk that I know of for putting in a wastewater channel – not what they did at Gilboa. I would encourage the Commission to look at that because if this tunnel closure in 2014 plans to be closed for five years, if you look at the way New York City projects tend to go, that's the best guess. Worst-case scenario could be an exponential of three times that. I would also like the DRBC to look at the science behind perhaps doing the run of the river. I hear a lot of environmentalists, other groups, talk about how and some of the state Commissioners present and past say, "We try to mimic the run of the river with the reservoirs." This is a really good experiment. When this tunnel closure happens in 2014 you can do exactly that. You can allow the reservoirs to draw down to the least valve level. They can do their maintenance on the dam structure itself. You can do a run of the river type of environment and then you'll see what kind of effect that has on conservation, on water quality, on flood mitigation and aquatic life. It's just a suggestion.

The last topic is the FFMP. I want to thank you. In reading it, there's a lot in it, a lot of the verbiage is there that reclaims the rights of the basin. I see that. I see the intent of what the Decree Parties are trying to do and I thank you for that, I really do. I think you guys did a great job with that but on the flip side, the fact that it didn't come before this board is shameful. DRBC has used the public rulemaking process for every single reservoir plan since there was a reservoir plan. Since the formation of the *Compact* you have gone through the process publically, published in the register, posting a draft on-line, holding public hearings, allowing a comment period. Just like you did in the past, none of that was done with this FFMP

and that is shameful. No one in the public is allowed to see the draft permit. I think you could have benefitted with some of what I consider to be holes in here from public comment. That leads me to the next question and that is, what is the process for the stakeholders to communicate with the Decree Parties if in fact you're not going to use the DRBC as a vehicle? How do we as stakeholders get involved in that so that our voices are heard? Carol, this has nothing to do with you because you guys got short-changed and I wish that hadn't happened, I really do. As a Commission I think it's important that you be part of this process, and my question is not only are we going to have a council of stakeholders or to interface with Decree Parties directly, but do you intend on the 2012 plan to come before the DRBC?

Ms. Collier. This is really for a Decree Party to answer.

Ms. Reichart. Well, four-fifths of them are here now.

Ms. Collier. They have a Regulated Flow Advisory Committee (RFAC) process as a way for access to what the Decree Party workgroup is doing – that's on the DRBC's end.

Ms. Reichart. But that's a disconnect, because we were sitting in this room discussing at an RFAC level when the Decree Parties issued press releases about what they already agreed to. So our voices were not heard at the Commission level. So there has to be a vehicle that allows the stakeholders to reach the Commissioners. There is a Subcommittee on Ecological Flows, but there is no separate subcommittee for those affected by floods. The Floodplain Subcommittee, which is not part of RFAC deals, with regulations and land use. So I ask you, Carol, to think about forming and perhaps request that you form – just like the fishermen have their subcommittee, we would like to have a subcommittee of our own because we have no voice in the DRBC as far as flow is concerned from a flood mitigation perspective, and that's not right. Thank you.

James Barth. Lieutenant Colonel, may I have just 30 seconds to identify a photo on page 3 of the report I submitted and the size of it. I included the Holbert Quarry because I took it from the *River Reporter* this week because they said the property is ten acres, so I don't know exactly how large that is but it must be seven or eight acres at least. And I included that because the bald spot in the previous photo – I don't know what size that is – and I just wanted to give some idea of a clear area since well pads are supposed to be about five acres. Thank you.