

# TOMPKINS COUNTY WATER RESOURCES COUNCIL

**July 20, 2009  
Meeting Minutes**

**Voting Members Present (14):** Liz Cameron, Donna Eschenbrenner, Barry Goodrich, Roxy Johnston, Joan Jurkowich, Dan Karig, Darby Kiley, Rick Manning, Frank Proto, Elaine Quaroni, Cindy Schulte, Craig Schutt, Mary Shelley, Linda Wagenet

**Voting Members Excused (5):** Sharon Anderson, Ed Bugliosi, Gregg McConnell, Bud Shattuck, Roger Yonkin

**Voting Members Absent (1):** Will Burbank

**Non-Voting Members Present (6):** John Andersson (Associate), Dooley Kiefer (Associate), Jose Lozano (Associate), John Mawdsley (Associate), Steve Penningroth (Associate), Marjory Rinaldo-Lee (Associate)

**Staff Present (1):** Kathy Wilsea (T C Planning Dept.)

**Guests Present (23):** John Abel, Linda Adams, Dave Bouldin, John Confer, Edwin (Todd) Cowen, Krisy Gashler, Robert Harner, Sue Heavenrich, Tim Hinkin, Gayle Keedy, George Keedy, Karen laureth, Ken Lynch (DEC), Pam Mackesey, Ruth Morgan, Leigh Slattery, Helen Slottje, John Supos, Elizabeth Graeper Thomas, Ed Wilson, Lisa Wright-Mathews, Wade Wykstra, Don Zelazny (DEC)

Chair Frank Proto called the meeting of the Water Resources Council to order at 4:21 PM.

**Agenda Review and Approval of Minutes** – There were no changes to the agenda. The draft minutes of June 17, 2009 were moved by Dan Karig and seconded by Barry Goodrich. Changes were provided by Jose Lozano and Dooley Kiefer, and accepted as friendly. Amended minutes accepted by unanimous voice vote.

**Water Management Requirements Under the Great Lakes and Susquehanna River Basin Compacts** – Frank Proto said use of water for hydrofracking in gas drilling is a topic of interest locally, and WRC asked DEC representatives to visit today. He welcomed Don Zelazny, the DEC Great Lakes Program Coordinator, and Ken Lynch, the DEC Lead Representative for the Susquehanna River Basin Commission. Don began by noting that 48% of NYS land and 20% of NYS population are covered by the agreements in today's discussion. Within the Great Lakes - St. Lawrence River Compact area, withdrawals over 100,000 gallons per day need to be reported to DEC, per legislation just passed in June. A water resources compact went into effect on 3/4/2008, and its provisions are being phased in to build upon existing regulations, ban new and increased diversions out of the compact area, establish goals and objectives for conservation and efficient use, establish resource-based decisionmaking, establish standards based on five criteria, and authorize regional and state enforcement. There are limited exceptions to the diversion ban, and the compact provides for regional use based on amount reasonable for intended use, return of all unconsumed water, prevention of significant individual and cumulative impacts, environmentally sound and economically feasible conservation, and compliance enforcement. Exceptions to the diversion ban are for public use into "straddling" counties, unconsumed water being returned must be in good condition and with no invasive species, interbasin diversion, and limits on mixing between basins.

Ken explained the Susquehanna River Basin Compact was signed in 1970 as a compact among Maryland, Pennsylvania, New York and the federal government. It established a Commission with an executive director and staff. They have a large planning mission and just updated their comprehensive plan. They address flooding, water quality and water quantity. Gas drilling is one of the daily consumptive uses approved, and he showed a chart of withdrawal purposes. Public water supply is approximately 320 million gallons daily, and estimated gas drilling is 30 million gallons daily. They expect irregular use for gas drilling over an extended period of time. SRBC regulates groundwater and surface water withdrawals, and an applicant might need both processes approved. SRBC mitigates by fee or construction of an alternate project. The commission's authority for natural gas provides for 100,000 gallons per day (30 day average), but authority has been extended over any amount of withdrawal. They also have approval by rule process, which can be by staff, and this process was in place prior to the gas drilling interest. SRBC meets four times per year. They are given much weight in the decisionmaking process, and take their role very seriously.

Ken provided a status report on the supplemental Generic Environmental Impact Statement on gas drilling. Scoping is complete. They expect September release of the draft sGEIS. Staff needs to prepare the environmental impact statement. The draft sGEIS is subject to a public review period. There are no drilling projects with high level fracking receiving permits until the process is complete. Drilling projects in the Susquehanna watershed are subject to another review level by SRBC. Don said in the Great Lakes agreement area, states can control withdrawals within their state. The GL-SLR Compact is written in such a way that interstate staff level review could be established.

In the question period, Joan Jurkowich said she understands limits by quantity, but based on what project size? Ken said Susquehanna has no thresholds for gas drilling, but each project is examined for cumulative impacts (not “typical”, but total actual). Don said Great Lakes is not quite there yet. They examine for cumulative impacts. Limits will be part of rules being established, and he expects a total, similar to limits for farms. Dan Karig said disposal of frac fluids seems more critical to him. Both compact areas are essentially the same, in that used fluids must meet state regulations for the treatment plant. Elaine Quaroni asked about water levels in the Great Lakes. Don said they see 30-year cycles of lows and highs, which have been consistent over hundreds of years. Ontario is actually managed by a joint commission, which can authorize releases at dams, but can’t allow level to fluctuate more than 4 feet. Marjory Rinaldo-Lee asked how the Great Lakes regulations are being phased in. Don said they have until December 2009 to identify regulations they want, until December 2010 to draft them, and until December 2013 to implement them. The existing regulation program will phase out and be replaced with Compact regulations. Gas drilling is not currently identified in the regulations. Ken pointed out that the SEQR process provides additional controls. DEC has authority to issue permits.

Pam Mackesey asked who determines accuracy of the quantity of water withdrawn, and is there enough staff to provide adequate oversight. Ken said adequate staffing is always a challenge. SRBC requires meter readings and reporting. Staff visits the site before the permit is granted and during the drilling process. In NYS they have staff and conservationists working in the field. Don said GL-SLR does not require meter readings. NYS has authorized further regulations, which are under development. John Mawdsley asked if there are penalties for offenders. Ken said he is not familiar with the specific ranges, but fines are significant. SRBC has approved fines in the range of \$75,000 to \$400,000. Don said there are administrative and dollar penalties\* in the GLSLR Compact area.

\* email received 7/27/2009: “*Kathy - During your last WRC meeting, I incorrectly answered a question about the enforcement penalties under the Great Lakes-St. Lawrence River Basin Water Resources Compact. The Compact provisions include administrative and civil penalties (vice criminal as I suggested previously) and does NOT contain dollar amounts for fines. Fiscal penalties will be determined either by deferring to the respective State's "in-basin management programs" or developed through future rule-making by the new Compact Council. However, the Compact also authorizes third-party suits providing that legal standing based on harm can be demonstrated. Please have this correction noted in your minutes. Thank you. Don Zelazny*”

**Committee Reports – Executive:** Frank Proto said the 6/27/2009 letter on ideas for testing levels from Jose Lozano was distributed by email. The Executive Committee met and drafted a response, which was distributed at today’s meeting to members. Frank explained an alternative position would be to thank Jose for his input and not provide response. Jose Lozano said he responded outside the agenda process, and requests a statement from WRC. Cindy Schulte, a member of the Exec. Committee, said one of the things they discussed at their meeting was process. Last month Frank requested that Jose discuss his proposal with the Monitoring Plan Committee, so Cindy asked why he went to the press before the partnership. Jose said this was because the partnership meeting was cancelled, and he felt it would be tabled and not discussed by the full council. Dan Karig commented that there were many PhDs in the room, but not in statistics. Statistics are not necessarily the way to approach the situation. WRC is not capable of the analysis in Jose’s plan, and has taken a causal approach, not a statistical approach. Todd Cowen said there are lots of assumptions about correlating data. The updated BACI analysis was submitted to DEC and ignored. Roxy Johnston said the partnership’s July meeting was canceled because many members were not available. They can discuss this at their August meeting. Visitor Tim Hinkin said he is frustrated. He lives by Lake Source Cooling facility’s testing site 7, and he and his neighbors don’t want monitoring reduced. The assumption is that the lake flows north, but site 7 turbidity and pollution have increased. This really is affecting him and his neighbors. Steve Penningroth said he’s not a statistician either, but the tributaries to site 7 are loaded with “tons” of phosphorus. Steve disagrees with the Ithaca Journal statement that phosphorus is being dredged up from the deep lake by LSC. Five other sources contribute more phosphorus than LSC: Fall Creek, Ithaca Area Wastewater Treatment Facility, Cayuga Heights Wastewater Treatment Facility, the tributary by the Convention & Visitors Center, and the tributary on the other side of Stewart Park. Tim Hinkin provided a sheet of quotes from The BACI for LSC dated October 28, 2008 on lake flow, chlorophyll, and turbidity, plus his interpretation of Cornell’s position. Dooley Kiefer said she felt the introduction in the draft response to Jose did not tie together with the body of the letter. Jose’s proposal’s point is that we can’t determine

anything yet due to limited testing, and we can't make definitive determination re LSC without more data. Joan Jurkovich said she sees a distinction between the Monitoring Plan and DEC's requirements for LSC testing. The Monitoring Plan addresses overall health and is not regulatory. The Monitoring plan takes advantage of data provided by others. Cindy Schulte concurred, saying WRC endorses a community-wide plan. WRC is not part of a regulatory process; WRC can only provide comments. Disagreements on LSC are a detriment to the community plan. Jose Lozano supported open discussion, as these objectives and targets need discussion. Linda Wagenet addressed Jose, saying he had all opportunities to contribute. His actions leave the impression no one would listen to him. She felt his discussion should be taken up with the partnership committee. She reminded him that WRC voted unanimously last year to support the monitoring plan. Todd Cowen said the monitoring plan is a moving plan, but DEC doesn't even look at it. It addresses many other issues besides LSC. Visitor John Confer said there are many impacts on lake circulation, but they are fleeting. There are several validated circulation prediction models, which all predict growth of algae and increased phosphorus. Growth of algae comes from increased total phosphorus. LSC is diluting total phosphorus on the shelf. Frank Proto sent Jose's concerns to the partnership committee. There was no action on the draft letter at this time. In other Executive Committee action, they met today with Planning Department staff on the budget. He requested Craig Schutt and Darby Kiley join in budget discussions with the Executive Committee.

Gas Drilling: Draft materials were distributed. Liz Cameron said the committee developed the parameters for baseline water testing. She wants to hear from members on whether they feel the water testing is primarily protecting individual health or the owner's property. Please review and send comments to Liz. The second item was a draft letter to DEC recommending a 90-day comment period for the sGEIS on gas drilling, which was supported without change. Grants: Craig Schutt reported that DEC has issued a request for proposals for grants. The committee reviewed eligible projects and will discuss with Joan Jurkovich. FLOWPA is applying for Great Lakes Initiative grant funds, which are funded in part with stimulus money. Darby Kiley said she welcomes ideas for the Local Waterfront Revitalization funds. NYS Department of State has suggested it could be used for update of the Network's Restoration & Protection Plan. Nominating/Membership: Color flyers announcing membership vacancies were distributed. Recruiting letters will start going out August 3<sup>rd</sup>. WRC/CU Monitoring Plan: Roxy Johnston reported that a series of articles are being prepared for the Ithaca Journal. Wetlands: Darby Kiley announced that Nick Schipanski is moving to Montreal. She expressed thanks for all of his hard work during his years on the WRC. The committee continues work on a model ordinance, which they will share at a WRC meeting in the fall. Aquifer: Frank Proto said the Caroline & Dryden projects are winding up and reports being written. Darby's study will continue into 2010. Discussions continue with Groton and Newfield about possible future studies. Pony Hollow in Newfield is a target study area because it is prime territory for gas drilling. DEC is funding the "local" share for the Pony Hollow study. Liz said the Aquifer Committee met and discussed posting data on spreadsheets. Cayuga Lake Recreation: Dan Karig reported he and Rick Ferrel met with a Canal Corporation representative. Canal Corp is willing to post a sign at the white lighthouse. Instead of placing signs on the shore, it would be better to post them on buoys. This was discussed with Lisa Nicholas, the dredging project leader for City Planning. Buoys will probably be placed in the channel after dredging, but permission for signs would need to come from the Coast Guard at the federal level. The canoe/kayak launch at the Farmers Market needs permits from Canal Corp and DEC. The trees planted by Wegmans are growing well. Dan contacted the Wegmans manager to point out their salt pile cover was leaking, and that was replaced.

**Chair & Staff Reports** – There were no reports.

**Announcements/Other Business** – Roxy Johnston announced the Cayuga Lake Watershed Network, the Intermunicipal Organization and the History Center are co-sponsoring four meetings on lake levels (Ithaca meeting will be 8/27). Cindy Schulte announced the vernal pools construction has been completed at the Newfield park. Signage will be posted. It may become part of the Unique Natural Areas Inventory. Frank Proto announced the 4H Fair is coming up soon.

**Adjournment** -- The meeting was adjourned at 6:28 PM.

Respectfully submitted,  
Kathy Wilsea, Planning Department Secretary  
Adopted by the Council on September 21, 2009.