

Meeting	Hudson River Drinking Water Intermunicipal Council
Date	Thursday, February 16, 2023 Quorum: 5:00 pm Adjourn: 6:22 pm
Location	Hybrid
Chairperson	Mayor Gary Bassett, Village of Rhinebeck
Vice Chair	Supervisor Jay Baisley, Town of Poughkeepsie
Secretary	Shannon Harris, Town of Esopus
In Attendance	<ul style="list-style-type: none"> ● Gary Bassett, Mayor (VoR) ● Russell Gilmore (ToL) ● Nick Butler (ToE) ● Shannon Harris (ToE) ● Danielle Freer, Supervisor (ToE) ● Lynn Ruggiero (ToHP) ● Devin Rigolino, Dutchess County Planning ● Amanda LaValle, Ulster County Executive office ● Rebecca Martin, Riverkeeper (Interim coordinator) ● Dan Shapley, Riverkeeper ● Paul Malmrose, Engineering Technical Advisor ● John Lyons, Pro-bono Attorney ● Grant Jiang, Department of Health ● Michael Forgang, Department of Health

Regular Business

1. Call To Order: 5:00pm
 - a. Roll Call & Quorum Determination. Voting members: Gary Bassett (VoR), Russell Gilmore (ToL), Lynn Ruggiero (ToHP), Danielle Freer (ToE), Devin Rigolino (Dutchess County). **Quorum (5 in-person)**
2. Approval of 1/19/22 minutes. **Motion to approve: Bassett/Gilmore**
Motion carried.
3. Communications listed in the agenda
 - a. 1/25/23 Daily Freeman: [Ulster supervisor eyes tax contributions from Hudson River power line](#). Town of Ulster Supervisor wanting to know how the county will receive taxes from TDI if a PILOT is not approved in Ulster County.

- b. Chris Dempf: “2 million tons of coal ash leaching into the hudson river along the Normanskill- Hudson River estuary”
- 4. County representative update
 - a. Dutchess
 - i. **DR:** Devin has updates on the coordinator position.
 - b. Ulster
 - i. **AL:** Letter came in from the County Executive’s office with Amanda’s appointment. Amanda introduced herself and is a new Deputy County Executive. She has been involved in County Government for 15 years, with a focus on water resource issues.
- 5. Public Comment.
 - a. None.

Reports and Actions on Old Business

- 1. Hudson 7 Priorities
 - a. Hudson 7 coordinator position.
 - i. **GB:** All MOA’s have been signed. Allows us to begin the next steps. **DR:** Enter into a legal agreement to contract legal services. Draft LOI to be sent out to local attorney’s. The Dutchess county lawyer suggested that the LOI be reissued to see if there are other attorneys interested. Otherwise, the Hudson 7 can proceed. Once a legal rep is selected, we enter into a contract between the Hudson 7 and legal. Dutchess county will be involved in order to pay the consultant. **GB:** Next step is to identify an attorney. The LOI went out twice, with two attorney’s of interest. What does the council want to do? **RM:** LOI submitted two proposals that are on the agenda. The council was to review applications last November. An applicant would be selected at that time, and follow-up communication. Has the council reviewed the respondents? **SH:** Discuss in executive session, have objection to one of them. Would like to see the credentials. One of these is eliminated, then the LOI could go back out. **GB:** I don’t have a preference, form a two person committee to review and come back with a recommendation next month. What was in the LOI? **RM:** It’s a short period of work to develop the framework to start a 501c3 in order for the Hudson 7 to hire a coordinator.

General legal services **GB:** Form a committee to take this offline with an update to the council. **RM:** Will send around the files with both candidates for their review and selection. **DR:** Would be interested in understanding the Hudson 7's position. With seven municipalities, there might be conflicts. **DS:** Is the Hudson 7 choosing between the two, or putting the LOI back out? **GB:** The committee will make that decision.

1. Motion to create a committee of two people.

Bassett/Ruggiero. Motion carried.

2. Motion for volunteers to serve Russ Gilmore and Shannon Harris. **Bassett/Ruggiero. Motion carried.**

b. NYS Drinking Water Source Protection Program

- i. **GJ:** Subcommittee meeting two weeks ago. We were discussing the potential contaminant sources in the Hudson 7 region. It's a comprehensive document. How does the Hudson 7 wish to proceed? **GB:** Share the document in advance to discuss next time. **GJ:** I sent over the annotated document, once you've had a chance to look at it you could share. **DS:** Schedule a meeting to discuss at least two items.

2. Hudson River Drinking Water Source Issues

a. Champlain Hudson Power Express

- i. **PM:** Paul presented a Hudson 7 engineering timeline for the CHPE project. Two things we looked at, a pilot jet plowing test near Fishkill of ½ mile run (¼ mile upstream and ¼ mile downstream). We had a pump at about 3 MGD that was constantly running to simulate one of the Hudson 7's impacts. Tests were done in September. We looked at the contaminants vs. the drinking water standards (the standards that need to be met when the water comes out, so it's conservative). We found that there didn't appear to be any changes in turbidity, but there were exceedances for sodium and chlorides, a result of the salt front coming up to the area so it's not a problem. Benzopyrene, a hydrocarbon that comes from coal tar that makes sense. The DOH was concerned about that too, but all the others were orders of magnitudes less than the standards. We questioned the depth of the jet plow being at 7 feet for the duration because they hit some rock, but according to their profile, they were at 7 feet or below. The grappling hook they

used to identify hard materials or problems before the jet plow, and TDI said that that shouldn't be a problem. We took borings a ¼ mile upstream, ⅛ mile upstream at the intakes and back again, these tests were done. We took a nine foot core and they analyzed the first 4 ½ feet and lower 4 ½ feet and composited those two samples. Almost always, the top 4 ½ feet had much higher values than the lower 4 ½ feet. Most of the limits were ok, not sure what standards we should be using. We recommended one, TDI recommended another, now they are flip flopping which they want to use. I see that metals, PCBs and Dioxins are exceeding some of the standards. We found out that the levels of contamination was higher around the intakes then where we did the simulated test. That might be because they did an 8 foot core at that point and a composite sample of the whole thing, so they might have gotten certain dilutions. We recommend we retain a consultant to review the data to determine what the appropriate standard is. Dan (Shapley) contacted a retired person from the DEC who said they would probably work with us, and I'd like to do that so we know what standards we're looking at. We were looking for a consultant to analyze this information. Tighe and Bond could do that, but the question is who would we contract with and get paid by, so it's up in the air. We also want to request TDI get borings at the simulated site to compare it to the ones we did around the intake. We're seeing metals, PCBs and Dioxins. The worst site is Hyde Park by far. Esopus is the lowest. But they didn't do a sample at the intake, so we're asking them to do that. **GB:** The working group needs to get together again to discuss this work, and to come back to the council with their recommendations. **PM:** Steve Gladding from the DOH looked at the data, and he has some concerns, but he doesn't think this a real big problem considering the dilutions that will happen and how the material will be transferred from the sediment to the intake. He was concerned about Benzopyrene, which is a major concern. But he recommends that we time the jet plow with the tides so that the tide is going out when they go past the intakes, and that we shut down the intakes as the jet plow passes (during construction). I don't think we can go too far from the field of

the DOH. There is work to be done, but it looks good for TDI at this point in my opinion. **GB:** We have to finish the work re: the Emergency Plans, correct? **PM:** Yes. **GB:** We have to come back with a recommendation based on our work to close that out (for the EM&CP). **JL:** Is the DOH going to provide a written comment to memorialize what you were told. **PM:** I don't think so, as Steve Gladding said it was his opinion and not the opinion of the DOH. I doubt the DOH will endorse this. **GB:** That's a question we can ask. **DS:** We should ask. **JL:** Even if he can say it's his opinion, and not that of the DOH to add this information to the record, it's valuable. Especially if we're not sure if we are going to be able to have an independent analysis done by a consultant. **GB:** CHPE Subcommittee needs to finish up the reports. **DS:** There is a person from Tighe & Bond ready to go, and although the committee agreed it would be good to do that, the Hudson 7 doesn't have the money right now. Should the Hudson 7 pass a resolution to memorialize that so that he could move forward in the case it chooses to? **GB:** Every municipality would have to pay for it. **JL:** Or pay a share. What's the number? **GB:** Do we go back to our boards and get something signed? Paul, do you have a number? **PM:** \$20-30k for all of this, for all of the communities. **GB:** \$10k a piece. What do you want to do? **LR:** We have to have a reason to go back and ask for money (more work). **RG:** We just got money approved (for the coordinator). **JL:** I think if there was anything you were going to spend money on, this would be very useful. I defer to Paul on the science, but an important piece to have a full understanding of. **RM:** What do the countries think about this? **DR:** If any municipality or county was going to think about it, we would need a proposal. I don't know from the county's perspective it would be a consultant coming to us vs. putting out an RFP. **GB:** It's above our procurement policy, we'd need to go out for an RFP. **DR:** We'd have to see the proposal to respond to it. **AL:** I'm in line with the conversation, I don't know how this group is governed, that would be something that we would need quotes for if not an RFP. The first thing is a scope, that's the first step. **GB:** We already said we would meet. We could draft the RFP to see if

we could go out to bid through the counties. What do you think? **DR:** Let me bring this back to the county. **RM:** Paul is leaving town next week. When you are imagining creating the REP, that it's in line with our capacity. Losing Paul for a month or two. **PM:** Yes, that would be necessary. Shannon and Esopus have developed a scope that is pretty good. Maybe the towns don't want to do all that Esopus is doing, but there are some good points that they make in their scope of work. **DF:** Tighe & Bond is the consultant for us, we've been keeping them in the loop of concerns from the Esopus perspective, and we are concerned. If the Hudson 7 isn't going to do it in the larger capacity, because we feel the work has to be done on behalf of our residents, even if the Hudson 7 won't do it. **GB:** We all wish we could do this, but we're not in a position to proceed. You either do it, and you bring your recommendations and we all benefit from your work. Option two is to share in the expense, and three is we can draft a RFP. **DF:** Concern is timing. We've promised our constituents a report since November. Timing is important to me. I question why we went through this process to get test results but no one to review it. **GB:** This is new for all of us, and a discovery process. We all chose to go down this path. John, what do you recommend that we do? Everytime we meet it's more time. **JL:** Logistical issues are not legal issues. There has to be a party to contract with the consultant and funds to pay for the work that's being done. From the standpoint of the importance of this work, I'm thinking about two primary reasons why I'd want to have a further understanding of the results. One, inform decision making for Hudson 7 and two, when the time comes to make formal comments on the EM&CP to the PSC, the more back-up that you can have with scientific evidence of concerns of the plan, the more likely you are going to be persuasive in the way the PSC sees the plan. How you secure that, is up to the organization. **SH:** We're in agreement with you, this work does have to be done and is the most important work to be done. Since we have prepared a scope of work anyway, and cuts to other sediment samples. There could be a way to portion out the costs so that Esopus can take the lead and do the work with

Tighe & Bond, but as it pertains to municipalities impacts that costing would be portioned out, and we could work on what that would look like. **GB:** Let's bring the scope of work in and discuss that scope to see if there are additions and then we'll have a final agreement. We can do that quickly at the next meeting. **JL:** That sounds like the best approach to move forward. There is a little bit of a risk for Esopus. The value of what you're suggesting, is that you can drive this process going, and Hudson 7 in parallel can be assembled to go through the steps so that Esopus would be reimbursed by shares from Municipalities. The risk you are taking is that you're counting on the Hudson 7 municipalities to agree to provide a portion of the reimbursement and if they didn't, Esopus would be responsible for the entirety of the contract. **DF:** We're in talks with them (Tighe & Bond). **PM:** The timeline is important, and Victoria has raised this. TDI is planning on doing this work starting in August 2024. They have to have the EM&CP six months before that. They need to work on it this August. **RM:** How does the Hudson 7 feel about TDI paying for this? Is that possible and if the Town of Esopus could be the municipality where the money could flow? **GB:** The last time we went through that and Tighe & Bond didn't want to do it. **RM:** Well only because they didn't want to be paid directly by TDI. **SH:** Part of our scope includes reimbursement to get that money. It was recommended by our attorney \$5k per review of each document of each municipality. It's embedded in our scope already. Similar to what we did with the DWSP2, we could take the lead and develop and ensure the paperwork was submitted in the right way for reimbursement. It's a little complicated, but it's not impossible to work out. With the right counsel and working with the engineer, we can come to a recommendation. **GB:** Will Tighe & Bond do this, show the scope of work to everyone in the case there is anything to add to it (technical committee to come up with that recommendation) and then how we make this work for municipalities. **SH:** That's the role of the Hudson 7, is to facilitate. **GB:** I don't know how to get that done but we can try. **PM:** We didn't want a contract from TDI and then

working as the Hudson 7's watchdog. If you have a contract with someone, they are your responsibility. We would be biased if we had a contract with them. TDI paying Esopus could probably work. **JL:** Drill down on PSC condition, that contemplates that the PSC would be the manager for the money. You'd have to make sure that whatever procedures the Hudson 7 comes up with matches what the PSC has in mind. We've had experience with community groups who get money from the PSC and it can take a long time. Shannon, I wasn't quite as sure as Victoria was with the condition language that the \$5k could be extrapolated out. That should be clarified with the PSC before it goes to final. **AL:** I know that the Hudson River Foundation is the fiduciary on the Environment settlement money, and is a significant sum of money. They have experience in this in-between role. Has anyone explored that? **DS:** It might not apply as it's specific to specific ecological and habitat restoration. **JL:** Might be able to make a connection to the constituents in the sediment. **AL:** Even if the money is separate from the Environmental benfirst, they already have the pathway with the developer. Might be a contracting avenue. **GB:** Lets bring this into the CHPE work group, and delve into this and come back next month. **PM:** Emergency management plans, this is important and TDI has to pay for anything involved in this. Everyone sent me their emergency response plan. All of these plans are looking at a minor problem with the system that they can rectify within hours or a day. All of them are proposing trucking in water to their storage tanks. If you do the math, Esopus who has the smallest would have to have 45 trucks per day. They have 118 hours of storage. Hyde Park would need 178 trucks per day. DCWWA wants to be able to handle their maximum flow, so it would be higher. What happens if you totally lose the intake or were contaminated for a long period of time? Can we get water from someone else? Bottled water at certain locations and pump contaminated water into the system so folks can flush their toilets? That's the solution that happened in Jackson, Mississippi. They totally lost the plant, came back online and pumped water that didn't meet the standards to flush their toilets, and provided bottled water to

the city. It's a big effort. What's going to happen with hospitals, dialysis centers, nursing homes, etc. It's a very involved plan. It might not happen, but it should be in place. Any costs must be paid for by TDI. **SH:** This is part of our scope, our emergency preparedness plan to run through scenarios and what it would take. We have a slightly different situation than the others in Dutchess, but as a joint scope of work is to look at the difference and provide options for each plant as part of what is to go inside the EM&CP. **GB:** Let's hash this out in the subcommittee, which gives you time to find out if Tighe & Bond is going to do this. How soon can we get that answer? Quickly. **GB:** Paul goes to New Zealand on 2/24. Can we meet on 2/21? **PM:** Monday, Wednesday and Fridays are best for me. **SH:** We have a good idea of what we're looking at, as we were going to do this with our drinking water plant. **DF:** Let's recirculate that, but I'm concerned about timing. Should we roll regardless and municipalities can plug in. **GB:** We don't want to hold you back, but if we could add to it to learn from. **DF:** Yes, so we can add to the scope of work and then see how we are to pay for it. **GB:** 2/22 at 1pm. **JL:** I want Hudson 7 to think about the emergency plan information that seems to me to be super important. I want to be thinking of parallel tracks about this as an organization. One, to facilitate what Esopus is doing and moving forward as quickly as possible. We need to be thinking about the EM&CP and comments that we might be making. Even though we don't know what those are right now, we can be laying the groundwork for these comments. We should be nimble so that we can make comments by the time they are needed. Lay foundation now. Is there anything in writing out there that embodies your (Paul's) concerns right now? **PM:** We can do that, we did the risk analysis and emergency plan in Rhinebeck, so we have the people to do it. **JL:** We should have a record that we can start building upon to send to the PSC which would be attention getting. The assumption is an emergency is going to be a short event, but it's not the entire universe of potential emergencies. If we could start, even rough, a draft that could be incorporated later to what Esopus is doing. **GB:** None of us have done anything for

catastrophic failure, and I don't know how Poughkeepsie could do it at 10m GPD. **JL:** This has that potential. My argument is that they need to be responsible to respond to that. The burden shouldn't be on the communities to create a reason for that to be done. **GB:** Identify the risk? **JL:** What are we going to do? 180 trucks in a day, is there enough water around that you could even do that? Many issues and holes in that plan. We must fill out the arguments to the PSC. **DF:** Easiest way to start is for each municipality to submit their emergency management plan. **GB:** We've been asking everyone to submit, and Paul has asked for them all. Hyde Park and Lloyd's are not collected. **RG:** You'll get it. **NB:** We're so close, we likely all use the same companies. **DS:** And not to mention that if there were a big incident, you might all be affected at once. You can't count on one another to help in this case. **JL:** You'll need to find different sources of water.

b. Lower Esopus Creek

i. Hudson 7 letter for proposed modified IRP.

1. **GB:** Is everyone comfortable with me signing off on this letter? **Motion to sign letter: Bassett/Gilmore.**
Motion carried.

ii. Turbidity reports from municipalities for DEC and Catalum DEIS.

1. **PM:** Ken Kosinski of the DEC asked for our turbidity data prior and following the Christmas storm of 2020. Everyone finally submitted the data. Ben Ganon was going to graph it for me. Amanda, can you get someone to help me with that? **GB:** Lets keep that open until we get an answer.

Actions on old business

1. Lower Hudson CAG / PCB 5YR

- a. **RM:** Coalition letter sign-on request from Riverkeeper/Scenic Hudson deadline of 2/24 to sign on. A good rally to pull together partners to prepare for the upcoming five-year-review.

- i. Motion to sign letter. Bassett/Ruggiero. Motion carried.**
- 2. Marc Nelson is the new Mayor of Poughkeepsie following Rob Rolison being elected into the senate.
 - a. Motion to replace membership for Poughkeepsie from Rolison to Nelson. Alstadt remains the alternate. Bassett/Gilmore. Motion carried.**

Motion to adjourn the January meeting **Bassett/Ruggiero. Motion carried**

Adjournment: 6:22pm