



**Your water. Your environment. Your voice.**

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## NEWS RELEASE

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For immediate release

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### **Watershed Association Supports Continuation of D&RCC**

*Canal Commission vital source of protection for drinking water & recreation*

(December 13, 2010) Hopewell NJ – The following is a Fact Sheet developed by Kathleen Cherry, professional planner, providing background information and reasons why the Delaware & Raritan Canal Commission – a vital body for the protection of our water and environment – should not be disbanded by the New Jersey Department of Environmental Protection as recommended by Commissioner Bob Martin and Governor Chris Christie.

#### **D&R CANAL COMMISSION RESPONSE TO RECOMMENDATION FOR ABOLISHMENT**

##### **Reasoning provided in Commissioner Martin's EO 15 document for abolishing the Canal Commission:**

"Currently, DEP staff in the Land Use Regulation Program are responsible for permits and the Historic Preservation Office protect the State Park, Canal and adjacent lands. The Division of Parks and Forestry are responsible for operations."

##### **Statutory creation:**

The D&R Canal Commission (Canal Commission) was created by statute to create a Master Plan for the development of the D&R Canal State Park (Canal Park) and to implement a regulatory program to ensure that government and private projects are designed to comply with the Master Plan. The Canal Commission protects the Canal Park as a State and National Historic District, recreational area for over one million visitors per year, and drinking water source for approximately one and a half million people.

##### **Commissioners:**

The eight Commissioners appointed by the Governor with the advice and consent of the Senate are not compensated for their time and work in any manner. They do not receive a salary or pension credits, nor do they receive reimbursement for travel or any other costs associated with their appointments.

##### **Commission staff:**

Canal Commission staff consists of three full time employees and two engineers that work one day per week.

##### **Commission funding:**

Two years ago the Legislature amended the statute to provide the Canal Commission with the ability to charge fees. The Canal Commission is now revenue neutral, as its funding is provided by the fees charged for the review of projects.

**Regulatory program:**

Reviews of development projects are completed within 30 days after receiving an application. The Canal Commission is required by statute to make a decision on a complete application within 45 days or the application is automatically deemed approved. Since the Canal Commission meets only once a month, the majority of decisions are made in time frames significantly less than 45 days. In the 30-year history that the regulations have been in place, less than 10 projects have been automatically approved because the Canal Commission did not meet its statutorily mandated 45-day clock. This track record is unparalleled among any other regulatory agency in the State.

Development projects are reviewed for their impact on stormwater runoff, stream corridors, and visual/historic impacts on the D&R Canal and the Canal Park. The EO 15 report asserts that this permitting can be accomplished by DEP's Land Use Regulation Program. However, there is less than a 10% overlap of projects requiring review by both the Canal Commission and the Land Use Regulation Program. Even for those projects requiring both reviews, the DEP may not review all the impacts of a project that the Canal Commission does. The Canal Commission's regulations are more protective of water quantity and quality and also more comprehensive than DEP's regulations. For example, the Canal Commission's regulations prohibit new discharge of stormwater into the Canal and waterways that feed into the canal. The minor overlap of development impacts that are reviewed by both agencies could easily be addressed by including the Canal Commission in the pilot program the DEP is developing to delegate stormwater reviews to municipalities. This approach was suggested during the Permit Efficiency Review Task Force.

The Canal Commission's stream corridor regulations are more comprehensive than comparable rules at DEP. The protection of these corridors is critical to improving and maintaining water quality entering the Canal and Canal Park, and to allow these areas to continue to store and mitigate storm water that may contribute to flooding. The Commission holds Conservation Easements for these corridors prohibiting any future development on them, a land preservation technique that involves no expense to the State of New Jersey. Currently the Commission has preserved and monitors over 5,000 acres of riparian buffers in the drainage basin of the canal.

The EO 15 report asserts that the State Historic Preservation Office (SHPO) protects the Canal Park and adjacent land. However, the SHPO's authority is limited to only those projects that use State or federal funding and are located within the Canal Historic District. For example, a private developer could build a modern high rise building on private property on the banks of the Canal, thereby destroying its historic setting, because the SHPO does not have the authority to regulate it. The Canal Commission's review authority for historic impact covers a greater area surrounding the Canal Park and reviews all projects, both private and governmental. In fact, less than 10% of the projects reviewed by the Canal Commission are reviewed by the SHPO for their impact on the Canal Park's historic character. Because of this much larger review authority, the Canal Commission's protective actions have greatly enhanced the Canal Park as one of New Jersey's natural and historic jewels, not only because the park itself is being protected, but because the Canal Commission helps preserve the historic context of lands adjacent to it.

The Canal Commission coordinates the actions of several State agencies, four counties, and 22 municipalities adjoining the Park. This coordination guides proposed development in and adjacent to the Park and its drainage basin based on a regional Master Plan, to ensure that individual projects and interests do not adversely affect this regional resource.

A primary purpose of the Commission is to have citizen oversight of public and private projects that impact the Canal Park and its water supply for 1.5 million residents of New Jersey. Impartial oversight of public projects, particularly those proposed by the DEP, cannot be accomplished without the current separate authority housed at the Commission. Without this separation, the state would be reviewing its own projects for consistency and we would lose the impartial decision-making currently in place.

Because it is regional and yet small, the Commission's regulatory program is flexible enough to try new techniques. As a consequence the Commission was the first agency in the State to regulate stormwater runoff regulations on a watershed basis—protecting the downstream communities from their upstream

neighbors; it was the first agency to protect a historic resource on a regional basis; and it was the first to require protection of riparian buffers along streams. The Commission is repeatedly told by applicants that its regulatory program is the most efficiently run program in the State.

### **Canal Park Improvements:**

Although the EO 15 report's assertion is correct in that the Division of Parks and Forestry is responsible for the Canal Park's operations, since 1974 the Canal Commission has generated in excess of \$20 million in direct improvements to the Canal Park through its regulatory and planning program. In 2009 alone, the following improvements were made to the park through mitigation required by the Canal Commission for project approval: restoration of the East Millstone Canal House by Canal Walk developers, a negotiated \$2 million contribution for a reproduction historic swing bridge from the DRJTB Commission; restoration of the Hanover Street Canal House by Thomas Edison College; improvements at the 5-Mile Lock access area and funding for pedestrian bridge at Easton Avenue by PSE&G; and NJTA stream corridor mitigation.

These projects could not have been accomplished with the Division of Parks and Forestry's budget for capital improvements. The Canal Commission has also forged a path with its sister agencies to complete improvements that would not have happened without its leadership, such as the pedestrian bridge over Route One and the "missing link" path segment in Trenton that now makes the Canal Park a continuous 60-mile recreational path.

Since the Canal Commission was created in 1974 central New Jersey has experienced explosive growth, yet the view from the Canal Park towpath remains much like it was in the 19<sup>th</sup> century. That is because the Canal Commission set standards for development in the canal corridor that no other regulatory agency will be able to maintain or match. Abolishing the Canal Commission will not save New Jersey taxpayers any money and it will certainly lead to a degradation of central New Jersey's most used and greatly loved Park.

***The Stony Brook-Millstone Watershed Association is central New Jersey's first environmental group, protecting clean water and the environment through conservation, advocacy, science and education. The Watershed Association protects a 265-square-mile region spanning 26 towns and five counties. To learn more, visit [thewatershed.org](http://thewatershed.org).***