

A RESOLUTION pursuant to Article 3.3 of the Delaware River Basin Compact to modify the conditions of Delaware River Basin Commission Resolution No. 83-13 and Docket D-77-20 CP (Revision 4) for the purposes of emergency protection of New York City Delaware River Basin reservoir tailwater fisheries.

WHEREAS, on December 1, 2001, the storage criterion set forth in Commission Resolution No. 83-13 for New York City's Delaware River Basin reservoirs triggered drought operations in accordance with the schedule of releases and diversions in the Commission's drought operating plan, and

WHEREAS, in accordance with Docket D-77-20 CP (Revision 4), when drought operations are triggered, the minimum releases from the three New York City Delaware Basin reservoirs drop to "basic" levels, and

WHEREAS, the New York State Department of Environmental Conservation (NYSDEC) has proposed a program for banking storage as a means of maintaining releases at "summer basic" rather than "winter basic" levels, for the protection of fisheries, and

WHEREAS, the proposed banking program is constrained from allowing any net loss of storage in the New York City Delaware River Basin reservoirs; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

- 1) An emergency fisheries protection program is hereby established to allow special releases designed by the NYSDEC within the terms specified below:
 - a) There will be no net loss of storage in the New York City Delaware River Basin Reservoirs.
 - b) The maximum use of 3,000 cfs-days (cubic feet per second-days) will be made available through reductions in releases required to meet the Montague target.
 - c) The credits (computed as the directed release minus 57 cubic feet per second (cfs)) from releases required for Montague targets may occur at the following rates:

<u>When Trenton Flow Equals or Exceeds</u>	<u>Maximum Daily Credit Reduction</u>
3500 cfs	100 cfs
3300 cfs	50 cfs

- d) The term of this emergency program begins immediately and continues until one of the New York City Delaware River Basin reservoirs spills, or when all summer basic conservation releases are restored in accordance with Docket No. D-77-20 CP (Revision 4).

- e) When sufficient positive credits have been accumulated, special releases may be requested hereunder on any day in which the River Master either does not call for the release of water to meet the Montague target, or calls for the release of water in an amount less than the summer basic conservation levels as established in Docket No. D-77-20 CP (Revision 4) (15 cfs at Neversink, 19 cfs at Pepacton, 23 cfs at Cannonsville). The special releases shall be in the amount needed to bring the total amount of water released that day up to such summer basic conservation levels, subject to the provisions of this program. Special releases and credits will be suspended if the combined storage in the Delaware River Basin reservoirs falls below the mid-point of the drought zone and will remain suspended until the storage increases above that level again.
- f) The operation of this emergency program will be designed by NYSDEC upon a continuing showing of need for these extra releases, and will be coordinated with the River Master and New York City. DRBC will be informed of the River Master's directed release each day when it is computed. The River Master's office will maintain the ongoing accounting for credits and releases, embodied in this program.
- g) For purposes of defining drought conditions as per the operation curves for the New York City Delaware River Basin reservoirs embodied in DRBC Resolution No. 83-13, the usable storage in the NYC Delaware Basin reservoirs shall be reduced by the cumulative unexpended credits.
- h) The Parties to the 1954 Supreme Court Decree will reconvene as needed by meeting or telephone call to reconsider this program should any party request it.
- i) This program will take effect immediately and will continue until conditions described in "1.d" are met or modified by unanimous agreement of the Parties to the 1954 Supreme Court Decree or terminated by any one of these Parties, but in any case to be terminated automatically on June 15, 2002.
- j) This program is intended to address the unique hydrological conditions currently existing, and does not constitute a precedent binding any Party to any similar program in the future.

/s/ Col. John P. Carroll

Col. John P. Carroll, Chairman pro tem

/s/ Pamela M. Bush

Pamela M. Bush, Commission Secretary

ADOPTED: December 18, 2001

AGREEMENT

The Parties to the U.S. Supreme Court Decree hereby agree to amendment of the conditions of Delaware River Basin Commission Resolution No. 83-13 and Docket D-77-20 CP (Revision 4) for the purpose of emergency protection of tailwater fisheries, as follows:

1) Establishment of an emergency fisheries protection program designed to allow special stream releases designed by the NYSDEC within the terms specified by this Agreement. The emergency program includes the following provisions:

- a) There will be no net loss of storage in the New York City Delaware River Basin Reservoirs.
- b) The maximum use of 3,000 cfs-days (cubic feet per second-days) will be made available through reductions in releases required to meet the Montague target.
- c) The credits (computed as the directed release minus 57 cfs) from releases required for Montague targets may occur at the following rates.

When Trenton Flow
Equals or Exceeds

Maximum Daily
Credit Reduction

3500 cfs

100 cfs

3300 cfs

50 cfs

- d) The term of this emergency program begins immediately and continues until one of the NYC Delaware Basin reservoirs spills, or when all summer basic conservation releases are restored in accordance with Docket No. D-77-20 CP (Revision 4).
- e) When sufficient positive credits have been accumulated, special releases may be requested hereunder on any day in which the River Master either does not call for the release of water to meet the Montague target, or calls for the release of water in an amount less than the summer basic conservation levels as established in Docket No. D-77-20 CP (Revision 4) (15 cfs at Neversink, 19 cfs at Pepacton, 23 cfs at Cannonsville). The special releases shall be in the amount needed to bring the total amount of water released that day up to such summer basic conservation levels, subject to the provisions of this Agreement. Special releases and credits will be suspended if the combined storage in the Delaware River Basin reservoirs falls below the mid-point of the drought zone and will remain suspended until the storage increases above that level again.

- f) The operation of this emergency program will be designed by NYSDEC upon a continuing showing of need for these extra releases, and will be coordinated with the River Master and New York City. DRBC will be informed of the River Master's directed release each day when it is computed. The River Master's office will maintain the ongoing accounting for credits and releases, embodied in this agreement.
- g) For purposes of defining drought conditions as per the operation curves for NYC reservoirs embodied in DRBC Resolution 83-13, the usable storage in the NYC Delaware basin reservoirs shall be reduced by the cumulative unexpended credits.
- h) The parties to this agreement will reconvene as needed by meeting or telephone call to reconsider these arrangements should any party request it.
- i) This agreement will take effect immediately and will continue until conditions described in "d" are met or modified by unanimous agreement to the Parties to the Decree or terminated by any one of these Parties, but in any case to be terminated automatically on June 15, 2002.
- j) This agreement is intended to address the unique hydrological conditions currently existing, and does not constitute a precedent binding any Party to agree to any similar program in the future.

[Signature] 12/19/01
State of Delaware Date

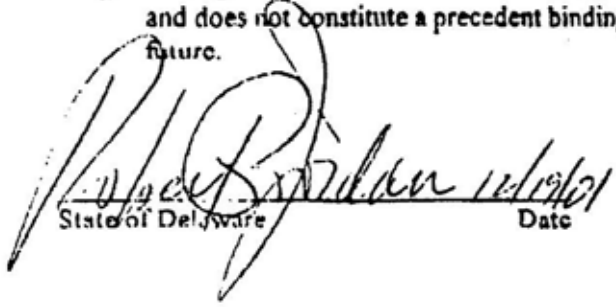
[Signature] 12/18/01
State of New Jersey Date

[Signature] 12/18/01
State of New York Date

[Signature] 12/18/01
Commonwealth of Pennsylvania Date

[Signature] 12/15/01
City of New York Date

- f) The operation of this emergency program will be designed by NYSDEC upon a continuing showing of need for these extra releases, and will be coordinated with the River Master and New York City. DRBC will be informed of the River Master's directed release each day when it is computed. The River Master's office will maintain the ongoing accounting for credits and releases, embodied in this agreement.
- g) For purposes of defining drought conditions as per the operation curves for NYC reservoirs embodied in DRBC Resolution 83-13, the usable storage in the NYC Delaware basin reservoirs shall be reduced by the cumulative unexpended credits.
- h) The parties to this agreement will reconvene as needed by meeting or telephone call to reconsider these arrangements should any party request it.
- i) This agreement will take effect immediately and will continue until conditions described in "d" are met or modified by unanimous agreement to the Parties to the Decree or terminated by any one of these Parties, but in any case to be terminated automatically on June 15, 2002.
- j) This agreement is intended to address the unique hydrological conditions currently existing, and does not constitute a precedent binding any Party to agree to any similar program in the future.


 State of Delaware _____ Date

 State of New Jersey _____ Date

 State of New York _____ Date

 Commonwealth of Pennsylvania _____ Date

 City of New York _____ Date