Agreement of the Parties to the 1954 U.S. Supreme Court Decree Effective June 1, 2015

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An Agreement, consented to by the Parties (the State of Delaware (Del.), the State of New Jersey (N.J.), the State of New York (N.Y.), the Commonwealth of Pennsylvania (Pa.), and the City of New York (NYC or City); hereafter Decree Parties) to the Amended Decree of the U.S. Supreme Court in New Jersey v. New York, 347 U.S. 995 (1954), (hereafter Decree) that succeeds for a one-year period the Flexible Flow Management Program (FFMP) that terminated on May 31, 2015, for managing diversions and releases under the Decree. The Decree Parties hereby agree to support all provisions of this Agreement.

1. FLEXIBLE FLOW MANAGEMENT PROGRAM

a. Program History

On September 26, 2007, the Decree Parties unanimously agreed to implement a Flexible Flow Management Program (FFMP) for operation of the three New York City reservoirs in the Delaware River Basin. The FFMP was designed to provide a more natural flow regime and a more adaptive means than the previous operating regime for managing releases and diversions from New York City's Pepacton, Cannonsville, and Neversink Reservoirs (City Delaware Basin Reservoirs). The FFMP addresses competing needs and uses including safe and reliable water supplies to serve the needs of more than 17 million people; drought management; flood mitigation; protection of the cold water fishery; a diverse array of habitat needs in the mainstem river, estuary, and bay; and salinity repulsion. The Decree, which resolved an interstate dispute related to these reservoirs, made no provision for spill mitigation, conservation, and ecological releases. The Initial Implementation Cycle of the FFMP was from October 1, 2007 to May 31, 2011.

The conceptual framework of the FFMP eliminated the reservoir storage "banks" previously relied upon for habitat protection purposes and instead based releases on reservoir storage levels, resulting in larger releases when water is abundant and smaller releases when storage is at or below Normal levels. The discharge mitigation component of the FFMP was intended to reduce the likelihood that the three reservoirs could be full and spilling coincident with a major storm or thaw.

The FFMP was designed to provide an adaptive framework which allows increased flexibility for program modifications and adjustments compared to the previous operating regime. This framework provides a tool to inform program-management decisions as new scientific and technical information is accumulated. During the Initial Implementation Cycle, notable revisions to the FFMP included the following:

Temporary Modifications – Such modifications have been made in support of increased reservoir releases for maintenance, inspection, and repair of the Delaware Aqueduct and appurtenant infrastructure; increased releases for supplemental flood mitigation; emergency thermal releases for protection of the cold water fishery; and enhanced summer releases through the use of Interim Excess Release Quantity (IERQ) Extraordinary Needs Banks.

Permanent Changes – Such changes have been made to the FFMP agreement to allow for increased reservoir releases for habitat protection needs in late May and early September; to clarify the meaning of "temporary" releases schedules during periods of maintenance and repair of City Delaware Basin Reservoirs and appurtenant infrastructure; to address the issue of storage zone bouncing; and to allow the use of up to 100 percent of the water equivalent of snow pack for the calculation of combined storage to determine reservoir releases rates.

b. Current Program

The original FFMP, effective October 1, 2007 and its subsequent modifications on December 10, 2008 and February 14, 2011, expired on May 31, 2011. Collectively, these programs are referred to herein as the Initial Implementation Cycle FFMP. The subsequent FFMP Agreement, effective June 1, 2011 and expired on May 31, 2012, was a one-year program unanimously approved by the Decree Parties and built upon the framework of the previous FFMP agreements. The FFMP Agreement effective June 1, 2012 and expiring on May 31, 2013 was a one-year extension of the June 1, 2011 Agreement and was unanimously approved by the Decree Parties. The 2013 FFMP and 2014 FFMP were also extensions of the June 1, 2011 Agreement. The current FFMP is also an extension of the June 1, 2011 Agreement and incorporates the edits from the previous three extensions of the 2011 Agreement with no additional program modifications other than dates. This Agreement, the 2015 FFMP, shall be effective from June 1, 2015 to May 31, 2016.

Although several limited studies and evaluations have been conducted to assess the effectiveness of selected elements of the Initial Implementation Cycle FFMP and suggest opportunities for its improvement, some of which were incorporated in the previous extensions of the Agreement, additional analyses and studies are needed prior to the Decree Parties reaching a longer term agreement for managing diversions and releases under the Decree.

The current FFMP is informed by impact assessments of previous FFMP Agreements, information and experience accumulated during the previous programs, and input from various stakeholder groups and the public. The current FFMP differs from the Initial Implementation Cycle FFMP mainly in the following key elements:

- Use of additional tables (i.e., schedules) of reservoir releases rates for the City Delaware Basin Reservoirs, developed on the basis of Forecast-based Available Water (FAW) not needed contemporaneously for New York City's water supply;
- Use of new releases tables that replace releases tables utilized in the Initial Implementation Cycle FFMP;
- Use of new rule curves that replace rule curves utilized in the Initial Implementation Cycle FFMP;
- Use of New York City's Operations Support Tool (OST) to guide selection of appropriate releases tables;

- Releases rates based, in part, upon recommendations provided jointly by the New York State Department of Environmental Conservation and the Pennsylvania Fish and Boat Commission Joint Fisheries Paper (January 12, 2010);
- Drought condition releases rates (L3-L5) that are consistent among the releases tables;
- Modifications to New Jersey's diversion during drought conditions and the establishment of a Diversion Offset Bank for New Jersey;
- Incorporation of the seasonal releases design of the FFMP Temporary Summer 2010 fisheries program;
- Redirection of the IERQ used to support the seasonal flow increment, which was intended to increase the Montague flow objective from 1,750 cfs to 1,850 cfs between June 15 and September 15;
- Use of 3.91 billion gallons (6,045 cfs-days) of IERQ to increase the base releases rates in the tables;
- Reattachment of the Montague flow objective with the location of the Delaware Estuary salt front (salinity vernier);
- Modified spill mitigation program that endeavors to maintain reservoir levels at the Conditional Seasonal Storage Objective (CSSO), creating a high probability of maintaining ten (10) percent void spaces from September 1, 2015 through March 15, 2016; and
- Postponement of a water-resources reassessment study until more information is available.

The additional releases tables and use of OST will facilitate the redirection of spilled water to managed water to benefit downstream interests when water in the City Delaware Basin Reservoirs is forecasted to be available for purposes other than New York City's water supply.

The June 1, 2012 FFMP Agreement differed from the 2011 FFMP Agreement in the following elements:

- Section, 1.b., Current Program, was updated to reflect the June 1, 2012 FFMP one-year extension;
- The dates were revised to correspond to the effective term of the June 1, 2012 FFMP Agreement;
- Additional units of measurement for water volume were provided; and
- The State of Delaware had one party signing the current FFMP Agreement, as opposed to two.

The June 1, 2013 FFMP Agreement was an extension of the June 1, 2011Agreement and incorporated the changes from the 2012 FFMP Agreement.

The June 1, 2014 FFMP Agreement was an extension of the June 1, 2011 Agreement and incorporated the changes of the 2012, and 2013 Agreements. The term Conditional Storage Objective (CSO) was changed to Conditional Seasonal Storage Objective (CSSO) in the 2014 Agreement.

The June 1, 2015 FFMP Agreement is an extension of the June 1, 2011 Agreement and incorporates the changes of the 2012, 2013 and 2014 Agreements.

c. Criteria for Flexible Flow Management Program Modification

In reviewing proposed modifications to address the purposes of the FFMP, as provided in Sections 16 and 17 herein, the Decree Parties will consider criteria that may include, without any particular priority, and not limited to, the following:

i. Decree Party equity

ii. Net benefits and costs to environmental and economic resources

iii. Source and sustainability of water available to support modification and the environmental or economic resource(s)

iv. Habitat types—with naturally-occurring habitats receiving consideration over man-made habitats

v. Scientific basis for modification

vi. Impacts to drought management, water supply and flood mitigation, including but not limited to: 1) frequency, duration and seasonal timing of the various levels of drought; and 2) frequency, duration, levels of storage, diversions, releases and flows

vii. Extent to which the diversions and the Montague minimum basic rate of flow provided in the Decree are met

viii. Potential impacts to water quality, existing National and State Pollution Discharge Elimination System permits and the assimilative capacity of the Delaware River

ix. Ease and practicability of operation

x. Consistency with adaptive management principles

xi. Applicability and implementation of water conservation practices

xii. Impacts to salinity

The Decree Parties agree to evaluate these parameters as well as potential additional parameters, when considering modifications to this program.

2. DIVERSIONS

a. New York City

In accordance with Section III.A. of the Decree, and subject to the limitations provided herein, at no time during the twelve-month period, commencing June 1, 2015 shall the aggregate total quantity of water diverted by the City, divided by the number of days elapsed since May 31, 2015 exceed 800 million gallons per day (mgd). The City shall be subject to the conditions and obligations in connection with the diversions, and releases to maintain the Montague flow objective, set forth in Section III.B. of the Decree. For this Agreement, the City shall make releases from its Delaware Basin Reservoirs in accordance with the releases schedules incorporated herein.

b. New Jersey

In accordance with Section V. of the Decree, except with respect to limitations provided herein in Section 5, the State of New Jersey may divert outside the Delaware River watershed, from the Delaware River or its tributaries in New Jersey, without compensating releases, the equivalent of 100 mgd under the supervision of the Delaware River Master (River Master) established by the Decree and shall be subject to the following conditions and obligations:

i. Until the State of New Jersey builds and utilizes one or more reservoirs to store waters of the Delaware River or its tributaries for the purpose of diverting the same to another watershed, or purchases or leases reallocated water or new storage from an existing or new storage facility, the State of New Jersey may divert not to exceed 100 mgd as a monthly average, with the diversion on any day not to exceed 120 million gallons.

ii. If and when the State of New Jersey has built and is utilizing one or more reservoirs to store waters of the Delaware River or its tributaries for the purpose of diversion to another watershed, it may withdraw water from the Delaware River or its tributaries into such impounding reservoirs without limitation except during the months of July, August, September and October of any year, when not more than 100 mgd as a monthly average and not more than 120 million gallons in any day shall be withdrawn. This restriction may be modified upon unanimous consent of the Decree Parties should the State of New Jersey purchase or lease reallocated water or new storage from an existing or new facility.

iii. Regardless of whether the State of New Jersey builds and utilizes storage reservoirs for diversion, its total diversion for use outside of the Delaware River watershed without compensating releases shall not exceed an average of 100 mgd during any calendar year.

3. FLOW OBJECTIVES

a. Montague Flow Objective

Except with respect to limitations provided herein in Section 5, releases from the City Delaware Basin Reservoirs shall be in quantities designed to maintain, during Normal storage conditions, a minimum basic rate of flow at the gaging station of the U.S. Geological Survey (USGS) at Montague, N. J. of 1,750 cubic feet per second (cfs), as directed by the River Master in accordance with Section VII. of the Decree.

During Basinwide Drought Watch, Drought Warning, and Drought Emergency, in accordance with Section 5 of this Agreement and Section 2.5.3.B. and Tables 1 and 2 of the Delaware River Basin Water Code (Water Code), the Montague flow objective shall vary based upon the time of year and location of the salt front, and minimum compensating releases shall be made by the City of New York from its reservoirs in the upper Delaware Basin.

The Decree Parties, with the guidance of the Operations Support Tool described herein in Section 6, shall seek to maximize the frequency of the minimum basic rate of 1,750 cfs flows at the USGS gaging station at Montague, N.J. without adversely impacting basin water supplies and other objectives of the FFMP.

b. Trenton Equivalent Flow Objective

Section 2.5.3 of the Water Code establishes a set of equivalent flow objectives at Trenton, N.J. to control salinity intrusion in the Delaware Estuary. One means for salinity management is through releases from Beltzville and Blue Marsh Reservoirs. Blue Marsh Reservoir is located on the Schuylkill River and is downstream of the USGS gaging station at Trenton, N. J. Releases from Blue Marsh Reservoir, as well as bypass flows from Yardley and the Point Pleasant Pumping station, are considered to be as effective at repelling salinity as water entering the estuary from the main stem Delaware River at Trenton. The Trenton Equivalent Flow is computed as the sum of flows at the USGS Trenton gaging station, releases in excess of conservation releases from Blue Marsh Reservoir, and 70 cfs to account for bypass flows via Yardley and the Point Pleasant Pumping Station. This value is compared to the Trenton Equivalent Flow Objective to determine if the flow objective was satisfied.

During Basinwide Drought Watch, Drought Warning, and Drought Emergency, in accordance with Section 5 of this Agreement and Section 2.5.3.B. and Tables 1 and 2 of the Water Code, the Trenton Equivalent Flow Objective shall vary based upon the time of year and location of the salt front, and minimum compensating releases shall be made by the City of New York from its reservoirs in the upper Delaware Basin.

4. RELEASES

a. Conservation Releases from the City Delaware Basin Reservoirs

Conservation releases designed for protection of the ecology in the stream reaches below the City Delaware Basin Reservoirs, including water quality, fisheries, and aquatic habitat needs, shall be made at the rates described in the Habitat Protection Program in Section 6 below.

b. Excess Release Quantity

For the period of the current program, the Decree Parties agree to use the Excess Release Quantity, as defined in the Decree, in support of an Interim Excess Release Quantity (IERQ) as defined in Paragraph c. below.

c. Interim Excess Release Quantity

For the period of the current program, an IERQ equivalent to 10.0 billion gallons (15,468 cfs-days) shall be provided as computed in the Initial Implementation Cycle of the FFMP based upon 83 percent of the difference between 1,257 mgd, the highest year's consumption of the NYC water supply system between 2002 and 2006 inclusive and NYC's estimate of continuous safe yield of the NYC water supply system at that time, of 1,290 mgd obtainable without pumping.

For the current program, 3.91 billion gallons (6,045 cfs-days) of the IERQ is incorporated in the releases tables to enhance base releases from the City Delaware Basin Reservoirs. The IERQ balance of 6.09 billion gallons (9,423 cfs-days) is reserved and may be used for additional releases to meet the Trenton Equivalent Flow Objective or to establish an Extraordinary Needs Bank as provided for in Section d., below.

Upon request by the Lower Basin States or DRBC, NYC shall release from the IERQ, water in sufficient quantities to maintain a flow at Trenton of 3,000 cfs during basinwide Normal conditions for the period commencing on June 15, 2015 and continuing through March 15, 2016 (seasonal period). The IERQ required to be released in any seasonal period shall not exceed 70 billion gallons. In releasing the IERQ, NYC shall not be required to release at rates exceeding the capacity of its release works. NYC shall make releases from the IERQ as provided above until May 31, 2016 or until the aggregate quantity of the IERQ is exhausted, whichever occurs first.

d. Interim Excess Release Quantity Extraordinary Needs Bank

In addition to the hydrologic criteria described in Section 2.5.6.A. of the Water Code and subject to other provisional uses of the IERQ as provided herein, the Decree Parties, the DRBC and the River Master may at any time review extraordinary water needs to support such research, aquatic-life, or other water-use activity as may be approved by the DRBC. Upon unanimous agreement, the Decree Parties may bank all or a portion of the IERQ remaining at such time, and such portion shall be placed in an IERQ Extraordinary Needs Bank and used to provide for such extraordinary water needs. Such quantity as may be

so banked shall be deducted from the IERQ. Any unused Extraordinary Needs Bank water shall be returned to IERQ.

5. DROUGHT MANAGEMENT

Figure 1 defines six zones of combined reservoir usable storage relative to the three drought management rule curves (Drought Watch, Drought Warning, and Drought Emergency creating Zones L3, L4, and L5, respectively) and two additional curves that subdivide the Normal storage zone into three zones (L1, L2-a, and L2-b). The three drought management rule curves are described below. The two Normal conditions rule curves are described in Section 6.

During the effective period of this Agreement, the following drought stage definitions and procedures will be in effect:

a. Drought Watch (L3)

The seasonally segmented line (shown as dashes) dividing the current Drought Warning in Figure 1 of DRBC Resolution No. 83-13 and DRBC Docket No. D-77-20 CP (Revised) is raised by four (4) billion gallons during the entire year. In addition, the upper half of the Drought Warning zone, previously referred to as DW1, is hereby designated Drought Watch, with diversions and flow objectives as shown in Table 1.

b. Drought Warning (L4)

The lower half of the Drought Warning zone (DW2), based upon the rule curves included in DRBC Resolution No. 83-13 and as modified by Paragraph a. above, is hereby designated Drought Warning, with diversions and flow objectives as shown in Table 1.

c. Drought Emergency (L5)

The operation level formerly named Drought in accordance with the rule curves included in DRBC Resolution No. 83-13 and Docket D-77-20 (Revised) is hereby designated Drought Emergency. During Drought Emergency, diversions shall be limited as shown in Table 1. The Montague and Trenton Equivalent Flow Objectives are shown in Tables 1 and 2.

New York City's diversions from the Delaware River Basin shall be in accordance with Table 1 (Interstate Operation Formula for Diversions and Flow Objectives). Minimum releases from the New York City Delaware Basin Reservoirs shall be in accordance with Table 3 (Schedule of Releases during Drought Operations).

New Jersey's maximum average monthly diversion from the Delaware River Basin via the Delaware and Raritan Canal shall be in accordance with Table 1, and shall not exceed 100 mgd, except when the Basin is in Drought Emergency, when said diversion shall not exceed a daily running average of 85 mgd commencing on the day such Drought

Emergency becomes effective. Under all City Delaware Basin Reservoir combined storage conditions, New Jersey's diversion on any day shall not exceed 120 million gallons.

d. New Jersey Diversion Offset Bank

There is hereby established a Diversion Offset Bank, not to exceed 1.84 billion gallons (2,850 cfs-days) of water in the City Delaware Basin Reservoirs, for the purpose of offsetting the increased diversions by New Jersey as provided in Table 1 of this Agreement, during basinwide Drought Watch, Drought Warning, and Drought Emergency conditions. The additional increases are in increments, not to be exceeded on any day, as follows: 0 mgd during Normal conditions; up to 15 mgd during Drought Watch; up to 30 mgd during Drought Warning; and up to 20 mgd during Drought Emergency. The differences in New Jersey's diversion, computed on the basis of Table 1 of the Good Faith Agreement, and the corresponding rates in Table 1 of this Agreement, establish the additional increments for New Jersey's diversion as incorporated herein.

This Diversion Offset Bank shall be created by selective reduced levels of releases in the L2 storage zones from Cannonsville Reservoir, during the periods June 1 to August 31, 2015 and May 21 to May 31, 2016 as provided in Tables 4g (L2-a and L2-b) and 4f (L2-a). Water saved by these reductions shall be accumulated in the Diversion Offset Bank and shall be available to offset New Jersey's incremental increases in diversions through the Delaware and Raritan Canal during drought periods.

If the accumulated incremental increased diversions by New Jersey, at any time, exceed the available water in the Diversion Offset Bank, the Lower Basin Reservoirs in Pennsylvania will provide the additional water to offset New Jersey's increased diversions. At no time shall New Jersey's accumulated incremental increased diversions exceed 1.84 billion gallons (2,850 cfs-days).

Any portion of the ERQ/IERQ or uncompensated storage in the downbasin reservoirs in Pennsylvania or in the New York City Delaware Basin Reservoirs which may be used to offset the increased New Jersey drought diversions provided herein is for the term of this agreement only and shall not be cited as precedent of any intention to provide such in future agreements.

Releases from the Diversion Offset Bank shall be at the direction of New Jersey in consultation with DRBC, and will be implemented by the River Master. Releases from the Lower Basin Reservoirs for New Jersey's diversion, if necessary, shall be at the direction of DRBC, in consultation with and at the request of New Jersey.

Releases from the Diversion Offset Bank or the Lower Basin Reservoirs to offset New Jersey's incremental increases in diversions through the Delaware and Raritan Canal shall be in accordance with timing procedures agreed upon by DRBC, New Jersey, and the River Master. No offsetting or accounting for offsetting is required for New Jersey's increased diversions on any day when DRBC determines that no water is required from Lower Basin Reservoirs to meet the current Trenton flow objective.

The River Master's office will maintain the ongoing accounting for releases made from this bank. At no time during the releases year commencing June 1, 2015 shall releases from the Diversion Offset Bank exceed the unused balance of the bank. The Diversion Offset Bank shall terminate automatically on June 1, 2016; provided that it may be terminated at an earlier date and the remaining balance added to the IERQ, by agreement of the Decree Parties.

Figure 1
New York City Delaware System Usable Combined Storage
(Cannonsville, Pepacton, and Neversink Reservoirs)

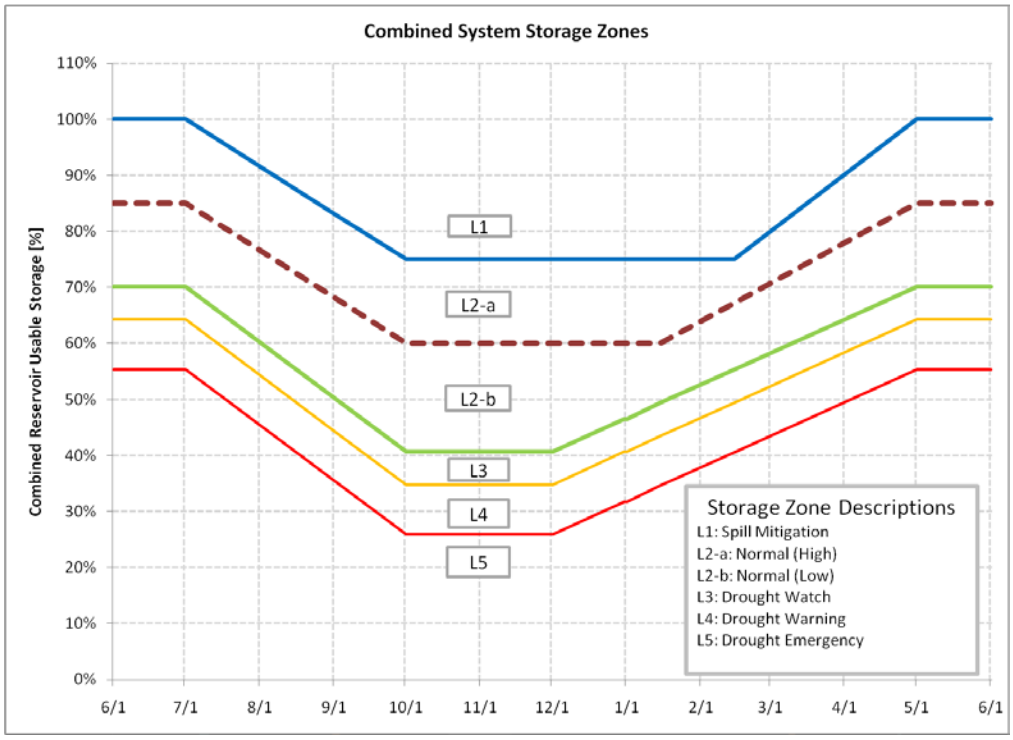


Table 1
Interstate Operation Formula for Diversions and Flow Objectives

NYC Storage Condition	*NYC Diversion (mgd)*	*NJ Diversion (mgd)*	*Montague Flow Objective (cfs)*	*Trenton Flow Objective (cfs)*
Normal (L1, L2)	800	100	1,750	3,000
Drought Watch (L3)	680	100	1,650	2,700
Drought Warning (L4)	560	100	1,550	2,700
Drought Emergency (L5)	520	85	1,100-1,650*	2,500-2,900*
Severe Drought	(to be negotiated depending upon conditions)			

* Varies with time of year and location of salt front, in accordance with Table 2.

Table 2
Interstate Operation Formula for Adjusting Montague and Trenton Flow Objectives during Drought Emergency (L5) Operations

	Flow objective, cubic feet per second at:					
	Montague, NJ			Trenton, NJ***		
7-day average location of Salt Front*, River Mile**	Dec-Apr.	May-Aug.	Sept-Nov.	Dec-Apr.	May-Aug.	Sept-Nov.
Upstream of R.M. 92.5	1,600	1,650	1,650	2,700	2,900	2,900
Between R.M. 87.0 and R.M. 92.5	1,350	1,600	1,500	2,700	2,700	2,700
Between R.M. 82.9 and R.M. 87.0	1,350	1,600	1,500	2,500	2,500	2,500
Downstream of R.M. 82.9	1,100	1,100	1,100	2,500	2,500	2,500

***** Defined as the 250 milligrams per liter isochlor in the Delaware Estuary.

**Measured in statute miles along the navigation channel from the mouth of Delaware Bay.

*** The Trenton Equivalent Flow Objective is achieved if the sum of flows observed at the USGS Trenton gaging station, releases in excess of conservation releases from Blue Marsh Reservoir, and 70 cfs to account for bypass flows via Yardley and the Point Pleasant Pumping Station is greater than the Trenton Flow Objective listed above.

Table 3
Schedule of Releases (cfs) during Drought Operations

	Winter		Spring		Summer			Fall		
Cannonsville Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L3	55	55	85	85	135	135	135	85	85	55
L4	50	50	60	60	100	100	100	50	50	50
L5	40	40	40	40	90	90	90	40	40	40

	Winter		Spring		Summer			Fall		
Pepacton Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L3	45	45	60	60	75	75	75	45	45	45
L4	40	40	50	50	65	65	65	40	40	40
L5	35	35	35	35	60	60	60	35	35	35

	Winter		Spring		Summer			Fall		
Neversink Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L3	30	30	40	40	55	55	55	30	30	30
L4	25	25	30	30	45	45	45	25	25	25
L5	20	20	20	20	40	40	40	20	20	20

e. Entry and Exit Criteria

Criteria for entry into and exit from the various stages of drought operations shall be in accordance with Section 2.5.3.E. of the Water Code. Normal (L2 or higher) level releases will be restored when combined storage in the City Delaware Basin Reservoirs reaches 25 billion gallons above the L3 curve in Figure 1 and remains at or above that level for 15 consecutive days.

f. Balancing Adjustment

In order to conserve water, the River Master is requested to utilize a balancing adjustment, based upon procedures agreed upon by the Decree Parties, when calculating the releases to be directed to meet the Montague flow objectives in Tables 1 and 2. Additionally, during Drought Warning, the amount of the conservation releases (L4) from the City Delaware Basin Reservoirs that is greater than the basic conservation releases rates as set forth in Table 1 of Docket D-77-20 (Revised) shall be considered as directed releases for the purpose of calculating the balancing adjustment.

6. HABITAT PROTECTION PROGRAM

a. Applicability and Management Objectives

The overall management goal of the Habitat Protection Program (HPP) is to protect the cold water fishery while maintaining aquatic community diversity, structure, and function through improved ecological flow releases. A series of four categorical protection levels for describing cold water ecosystem management objectives for waters downstream of the City Delaware Basin Reservoirs was developed by New York and Pennsylvania fishery managers and is shown on Plate 1. These protection levels apply in non-drought years and are defined as follows:

Excellent: Excellent year-round cold water aquatic habitat protection. Summer water temperatures are routinely 68ºF or less and only very rarely exceed a daily maximum of 75ºF. Excellent protection level applies to the West Branch Delaware River from Cannonsville Reservoir to the junction with the East Branch Delaware River, the East Branch Delaware River from Pepacton Reservoir to the hamlet of East Branch, N.Y., and Neversink River from Neversink Reservoir to Bridgeville, N.Y.

Good: River section provides cold water aquatic habitat and thermal protection and maintains opportunities for a cold water fishery. Summer water temperatures will occasionally exceed a daily maximum of 75ºF for short periods and water temperatures greater than 68ºF occur more frequently than with the Excellent protection level.

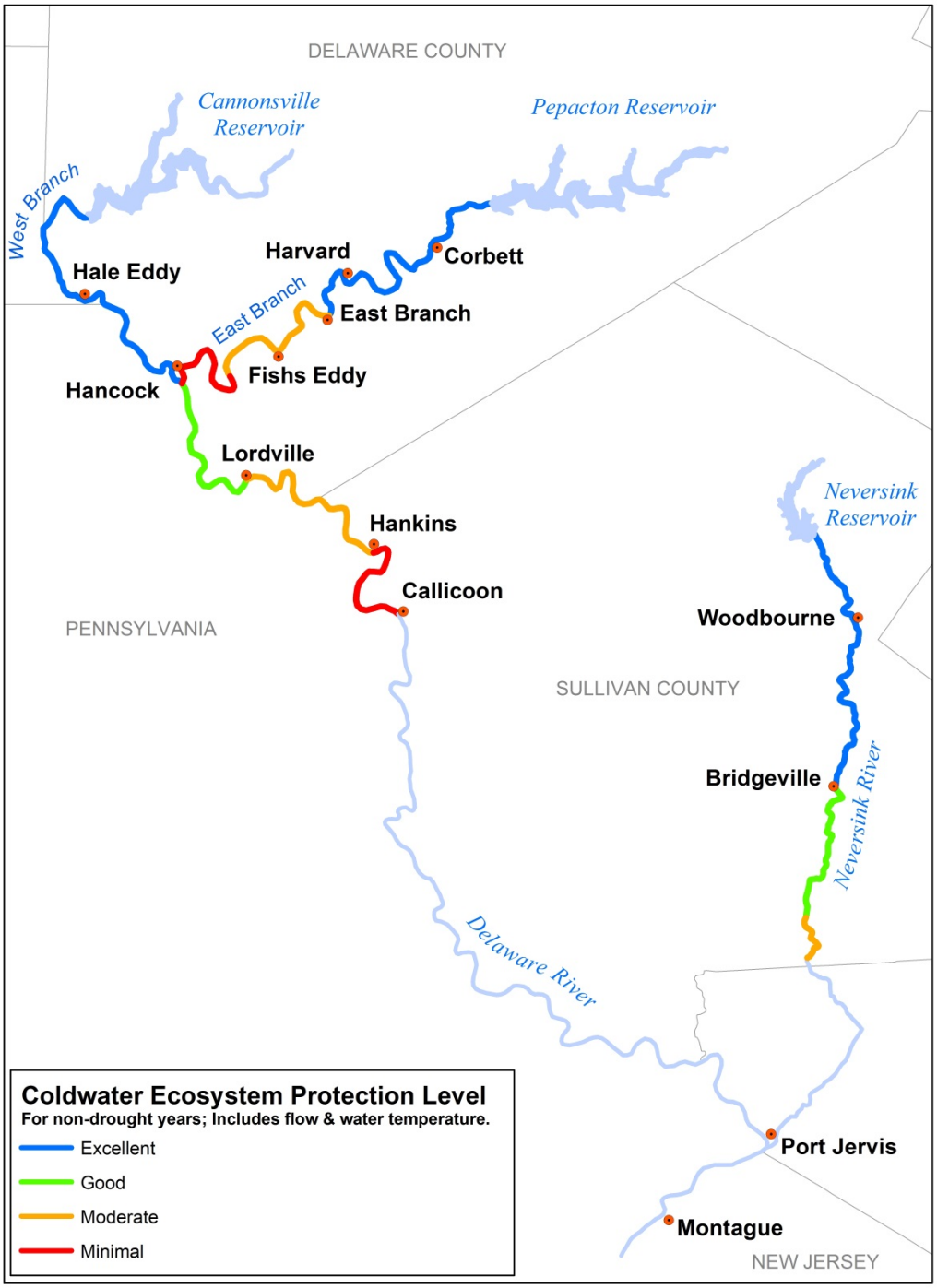
Elevated temperatures will occasionally be an issue. Good protection level applies to the Delaware River main stem from the junction of the West and East Branches to Lordville, N.Y. and the Neversink River from Bridgeville, N.Y. to the mouth of Eden Brook near Oakland Valley, N.Y.

Moderate: River sections will experience adequate flow and some thermal protection for cold water species. Seasonal opportunities for a cold water fishery will occur, but thermal benefits will diminish. Moderate protection level applies to the East Branch Delaware River from East Branch, N.Y. to the mouth of Corn Creek near Peas Eddy, N.Y., the Neversink River from the mouth of Eden Brook near Oakland Valley, N.Y. to the Sullivan/Orange County, N.Y. boundary, and the Delaware River main stem from Lordville, N.Y. to Hankins, N.Y.

Minimal: River sections with this designation will experience adequate flow, but only limited thermal protection. The quality of the fishery will be generally seasonal and will vary from year to year. Flows should be adequate to allow trout to reach cold water refugia and to protect dwarf wedgemussel populations in the vicinity of Callicoon, N.Y. Minimal protection level applies to the East Branch Delaware River from the mouth of Corn Creek near Peas Eddy, N.Y. to the junction with the West Branch Delaware River, and the Delaware River main stem from Hankins, N.Y. to Callicoon, N.Y.

The Decree Parties recognize that the degree of protection in waters downstream of the City Delaware Basin Reservoirs will vary according to annual fluctuations in precipitation and temperature, reservoir releases rates, distance from the locations of reservoir releases, and tributary influences. Requirements for protection of the federally endangered dwarf wedgemussel are currently under study and are poorly defined.

Plate 1
Extent and Protection Level of the Cold Water Ecosystem



b. Controlled Releases for Habitat Protection Program

There is hereby established a Habitat Protection Program (HPP), which consists of conservation releases designed for the protection of the cold water fishery below the City Delaware Basin Reservoirs.

The HPP is designed to make enhanced releases, above the base releases given in Table 4a, when an assessment by New York City, using its Operations Support Tool (OST), determines that additional water is available for releases and that any risk to the City's water supply is at an acceptable level. The Base Releases table is designed for drought neutral minimum releases, i.e., no additional drought risk relative to DRBC Docket D-77-20 Revised (Rev. 1), which can be maintained under Normal conditions, independent of inflow or the City's demand.

The City is using OST, a state-of-the-art forecast-driven analysis and decision support tool that will provides the City with probabilistic predictions of future system status. In addition to its principal objective of improving operational decision making in providing a reliable supply of high quality drinking water for 9 million people, OST also provides assurance that the actions taken to support downstream objectives, such as fish habitat, stream ecosystems, and better discharge mitigation, will not adversely impact water supply reliability. It allows the City to compare different sets of operating scenarios using real-time system information (e.g., reservoir levels, water quality, streamflows) and forecasts (e.g., streamflows, meteorological drivers) to evaluate the impacts on water supply reliability so that objective risk-based decisions can be made quickly and efficiently.

Under this agreement the City will voluntarily make enhanced stream releases using the Forecast-based Available Water (FAW) as determined by an OST assessment and in accordance with Figures 1 and 2 and the appropriate FAW or the base releases shown in Table 4a. When the assessment indicates that no additional water is available, the City shall make releases in accordance with the currently sustainable base releases shown in Table 4a. The City is under no obligation to make enhanced releases beyond the base releases, when the risk to water supply, as determined by the City using its OST assessment, is unacceptable. Tables 4b through 4g present the releases tables under Normal conditions for pre-determined amounts of FAW.

The City will make available to the Decree Parties the inputs to the OST model, the outputs from the model, and the releases table selection guidelines, including the forecasted probabilistic inflows, the status of the City Delaware Reservoirs, and the operational assumptions applicable to OST-based decisions. OST assessments shall be performed as frequently as necessary to confirm confidence in the selected FAW table but generally not less than monthly. Prior to making a releases table change, the City will provide notification, along with a general description of the rationale of such change to the Decree Parties, the River Master, and DRBC. The City shall provide the OST Summary Data, described above through the River Master's website.

As shown in Tables 4a through 4g, each reservoir has a schedule of seasonal releases based on the quantity of combined reservoir usable storage, and the quantity of water available for the HPP.

Figure 2
New York City Delaware System Usable Individual Storage
(Cannonsville, Pepacton, and Neversink Reservoirs)

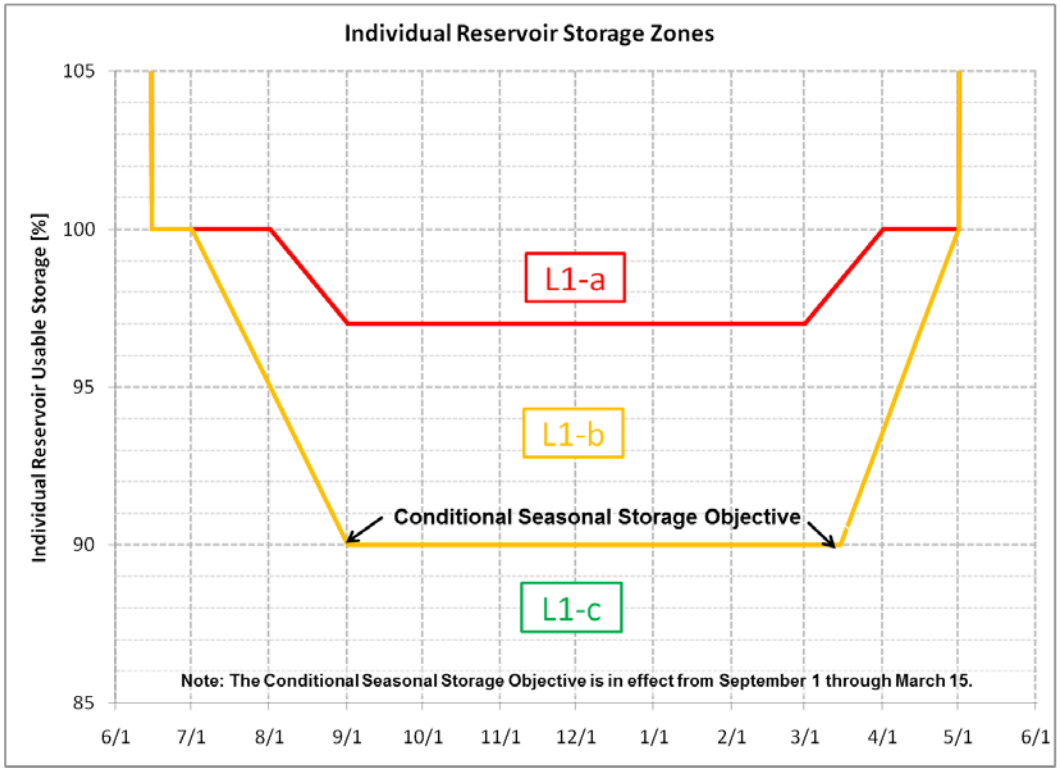


Table 4a
Schedule of Releases (cfs) during Normal Conditions
Base Releases with no Forecast-based Available Water (FAW)

Cannonsville Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	400	400	*	*	*	*	400	400	400	400
L1-c	110	110	200	250	275	275	275	275	175	110
L2-a	75	75	150	200	225	225	225	225	150	75
L2-b	60	60	135	175	190	190	190	190	135	60

Pepacton Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	300	300	*	*	*	*	300	300	300	300
L1-c	85	85	110	130	150	150	150	150	100	85
L2	50	50	75	90	100	100	100	100	60	50

Neversink Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	65	65	85	100	110	110	110	100	75	65
L2	35	35	55	65	75	75	75	65	50	35

* Indicates storage zone not present at this time period; release is entry in cell below.

Table 4b
Schedule of Releases (cfs) during Normal Conditions
Releases with 10 mgd Forecast-based Available Water (FAW)

Cannonsville Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	400	400	*	*	*	*	400	400	400	400
L1-c	125	125	225	300	300	300	300	300	200	125
L2-a	85	85	160	235	245	245	245	235	160	85
L2-b	70	70	140	200	210	210	210	200	140	70

Pepacton Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	300	300	*	*	*	*	300	300	300	300
L1-c	85	85	110	130	150	150	150	150	110	85
L2	55	55	75	100	110	110	110	100	75	55

Neversink Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	70	70	85	100	110	110	110	100	85	70
L2	40	40	60	75	80	80	80	75	60	40

* Indicates storage zone not present at this time period; release is entry in cell below.

Table 4c
Schedule of Releases (cfs) during Normal Conditions
Releases with 20 mgd Forecast-based Available Water (FAW)

	Winter		Spring		Summer			Fall		
Cannonsville Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	500	500	*	*	*	*	500	500	500	500
L1-c	150	200	250	300	325	325	325	325	225	150
L2-a	90	140	175	260	275	275	275	260	170	90
L2-b	80	90	150	220	240	240	240	220	145	80

	Winter		Spring		Summer			Fall		
Pepacton Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	300	300	*	*	*	*	300	300	300	300
L1-c	100	100	110	130	150	150	150	150	125	100
L2	60	60	85	110	125	125	125	110	85	60

	Winter		Spring		Summer			Fall		
Neversink Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	70	70	85	100	110	110	110	100	85	70
L2	45	45	65	80	90	90	90	80	65	45

* Indicates storage zone not present at this time period; release is entry in cell below.

Table 4d
Schedule of Releases (cfs) during Normal Conditions
Releases with 35 mgd Forecast-based Available Water (FAW)

	Winter		Spring		Summer			Fall		
Cannonsville Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	600	600	*	*	*	*	600	600	600	600
L1-c	175	250	300	375	400	400	400	375	275	175
L2-a	110	175	225	300	325	325	325	300	210	110
L2-b	90	115	175	250	275	275	275	250	150	90

	Winter		Spring		Summer			Fall		
Pepacton Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	300	300	*	*	*	*	300	300	300	300
L1-c	100	100	110	130	150	150	150	150	125	100
L2	70	70	90	125	140	140	140	125	90	70

	Winter		Spring		Summer			Fall		
Neversink Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	75	75	100	100	125	125	125	100	100	75
L2	50	50	70	90	100	100	100	90	75	50

* Indicates storage zone not present at this time period; release is entry in cell below.

Table 4e
Schedule of Releases (cfs) during Normal Conditions
Releases with 50 mgd Forecast-based Available Water (FAW)

	Winter		Spring		Summer			Fall		
Cannonsville Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	700	700	*	*	*	*	700	700	700	700
L1-c	200	325	400	400	500	500	500	400	325	200
L2-a	125	200	250	325	400	400	400	325	250	125
L2-b	100	150	200	275	300	300	300	275	150	100

	Winter		Spring		Summer			Fall		
Pepacton Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	500	500	*	*	*	*	500	500	500	500
L1-c	150	150	150	150	150	150	150	150	150	150
L2	80	80	100	125	140	140	140	140	100	80

	Winter		Spring		Summer			Fall		
Neversink Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	75	75	100	100	140	140	140	100	100	75
L2	50	50	75	90	100	100	100	90	75	50

* Indicates storage zone not present at this time period; release is entry in cell below.

Table 4f
Schedule of Releases (cfs) during Normal Conditions
Releases with 75 mgd Forecast-based Available Water (FAW)

	Winter		Spring		Summer			Fall		
Cannonsville Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	700	700	*	*	*	*	700	700	700	700
L1-c	225	475	475	525	600	600	600	475	375	225
L2-a	150	400	400	400/450+	500/525+	500/525+	500/525+	400	300	150
L2-b	100	150	200	275	300	300	300	275	200	100

	Winter		Spring		Summer			Fall		
Pepacton Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	500	500	*	*	*	*	500	500	500	500
L1-c	150	150	150	150	150	150	150	150	150	150
L2	100	100	100	125	140	140	140	140	100	100

	Winter		Spring		Summer			Fall		
Neversink Storage Zone	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	75	75	100	100	140	140	140	100	100	75
L2	55	55	90	90	110	110	110	90	90	55

* Indicates storage zone not present at this time period; release is entry in cell below.
+ Second entry after slash indicates reduction in release rate for New Jersey Diversion Offset Bank.

Table 4g
Schedule of Releases (cfs) during Normal Conditions
Releases with 100 mgd Forecast-based Available Water (FAW)

Cannonsville Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	1500	1500	*	*	*	1500	1500	1500	1500	1500
L1-b	700	700	*	*	*	*	700	700	700	700
L1-c	225	475	475	525	600	600	600	475	375	225
L2-a	150	400	400	400/450+	500/525+	500/525+	500/525+	400	300	150
L2-b	150	400	400	400/450+	500/525+	500/525+	500/525+	400	300	150

Pepacton Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	700	700	*	*	*	700	700	700	700	700
L1-b	500	500	*	*	*	*	500	500	500	500
L1-c	150	150	150	150	150	150	150	150	150	150
L2	100	100	100	140	140	140	140	140	100	100

Neversink Storage Zone	Winter		Spring		Summer			Fall		
	Dec 1 - 31-Mar	Apr 1 - 30-Apr	May 1 - 20-May	May 21 - 31-May	Jun 1 - 15-Jun	Jun 16 - 30-Jun	Jul 1 - 31-Aug	Sep 1 - 15-Sep	Sep 16 - 30-Sep	Oct 1 - 30-Nov
L1-a	190	190	*	*	*	190	190	190	190	190
L1-b	125	110	*	*	*	*	150	150	150	125
L1-c	75	75	100	100	140	140	140	100	100	75
L2	55	55	90	90	110	110	110	90	90	55

* Indicates storage zone not present at this time period; release is entry in cell below.
\+ Second entry after slash indicates reduction in release rate for New Jersey Diversion Offset Bank.

7. DISCHARGE MITIGATION PROGRAM

In order to enhance flood mitigation provided by the City Delaware Basin Reservoirs, NYC agrees to establish a Conditional Seasonal Storage Objective (CSSO) rule curve in Figure 2. Consistent with good practices for water supply reservoirs, and in order to ensure that sufficient resources are available during an extended dry period to support both lower basin and NYC needs, it is essential to ensure that the City Delaware Basin Reservoirs are filled on or around June 1st every year. To accomplish this, the CSSO (boundary between the L1-b and L1-c storage zones in Figure 2) must be limited and ramped. For the duration of the current program NYC shall endeavor, to the maximum extent possible without impacting water supply reliability, to maintain reservoir levels at the CSSO, thus creating a high probability of maintaining ten (10) percent void spaces from September 1, 2015 through March 15, 2016 to help mitigate flooding events. In determining the releases needed to maintain the CSSO, the following parameters are considered in the OST evaluation: forecasted inflows over the next seven (7) days, FAW table releases in effect over the next seven (7) days, anticipated diversions over the next seven (7) days, snow water equivalent in the watershed ranging from 50 percent to 100 percent as appropriate, and the current usable reservoir storage. Based on any projected seven (7) day storage surplus, new release rates, above the FAW table releases in effect, are calculated and spread over the upcoming 7-day period, within the limitations of the release works for each reservoir.

Discharge Mitigation Program releases are designed to help mitigate the effects of flooding immediately below the City Delaware Basin Reservoirs. When the combined reservoir usable storage in Figure 1 is in Zone L1, the spill mitigation zone, Figure 2 defines three zones of reservoir-specific storage (L1-a, L1-b and L1-c) relative to two rule curves for each reservoir. Tables 4a through 4g further define spill mitigation releases based on reservoir-specific storage when combined storage is in Zone L1. When combined usable reservoir storage is below Zone L1, reservoir-specific storage zones as defined in Figure 2 are not applicable, and the releases to be made, as set forth in the tables, are for conservation purposes only.

The City shall make discharge mitigation releases from the City Delaware Basin Reservoirs in accordance with the following:

i. For the period June 16 through April 30, if combined reservoir usable storage is in Zone L1 in accordance with Figure 1, discharge mitigation releases shall be made based upon individual reservoir usable storage in accordance with Zones L1-a, L1-b and L1-c as provided in Figure 2 and Tables 4a through 4g. During the period October 1 through April 30:

    a. Fifty percent (50%) of the water equivalent of snow pack in the watersheds above the reservoirs shall be included in the determination of combined and individual reservoir usable storage in relation to Figures 1 and 2.

    b. If, as a result of the combination of current snow pack and predicted meteorological conditions, in the opinion of the New York City Department of Environmental Protection (NYCDEP) any reservoir is anticipated to spill within a period of seven (7) days, then upon notification by NYCDEP to the Decree Parties, the River Master, and DRBC, NYCDEP may, in consideration of possible downstream impacts and the stage and discharge thresholds given in Section 6.a. and Table 5, herein, include up to one hundred percent (100%) of the water equivalent of snow pack in the watersheds above the reservoirs in the determination of combined and individual reservoir usable storage in relation to Figures 1 and 2, unless and until any Decree Party shall notify the NYCDEP, the River Master, and DRBC of its objection to such inclusion. As soon as practicable, NYCDEP shall transition back to the fifty percent (50%) snow pack water equivalent criterion with notification to the Decree Parties, the River Master, and DRBC.

ii. For the period May 1 through June 15, Zones L1-a and L1-b shall not be applicable in accordance with Figure 2, and discharge mitigation releases shall be made in accordance with Zone L1-c as provided in Figure 2 and Tables 4a through 4g.

iii. The NYCDEP and the New York State Department of Environmental Conservation (NYSDEC) reservoir releases managers, upon mutual agreement,

may transfer spills to bottom releases to the extent possible at any reservoir.

iv. The current National Weather Service (NWS) flood stage for the West Branch Delaware River at Hale Eddy is 11.0 feet. Accordingly, Zone L1discharge mitigation releases will not be made from Cannonsville Reservoir when the river stage for the West Branch Delaware River at Hale Eddy is above 9.0 feet, or is forecasted to be above 9.0 feet within 48 hours of planned discharge mitigation releases, and releases shall be made in accordance with Zone L2 through L5 as provided in Tables 4a through 4g. This guidance may be modified at any time upon unanimous consent by the Decree Parties, if additional information demonstrates that a different cautionary stage should be used to limit the discharge mitigation releases.

v. The current NWS flood stage for the East Branch Delaware River at Fishs Eddy is 13.0 ft. Accordingly, Zone L1 discharge mitigation releases will not be made from Pepacton Reservoir when the river stage for the East Branch Delaware River at Fishs Eddy is above 11.0 ft. or is forecast to be above 11.0 ft. within 48 hours of planned discharge mitigation releases, and releases shall be made in accordance with Zone L2 through L5 as provided in Tables 4a through 4g. This guidance may be modified at any time upon unanimous consent by the Decree Parties, if additional information demonstrates that a different cautionary stage should be used to limit the discharge mitigation releases.

vi. The current NWS flood stage for the Neversink River at Bridgeville is 13.0 feet. Accordingly, Zone L1 discharge mitigation releases will not be made from Neversink Reservoir when the river stage for the Neversink River at Bridgeville is above 12.0 feet, or is forecast to be above 12.0 feet within 48 hours of planned discharge mitigation releases, and releases shall be made in accordance with Zone L2 through L5 as provided in Tables 4a through 4g. This guidance may be modified at any time upon unanimous consent by the Decree Parties, if additional information demonstrates that a different cautionary stage should be used to limit the discharge mitigation releases.

vii. Discharge mitigation releases may be suspended from the respective reservoir if NYCDEP and NYSDEC, in consultation with the NWS, determine that ice conditions threaten flood prone areas of the West Branch Delaware River below Cannonsville Reservoir, East Branch Delaware River below Pepacton Reservoir, or Neversink River below Neversink Reservoir.

viii. Discharge mitigation releases will be designed so that the combined discharge from each reservoir's controlled release works and spillway does not exceed the maximum rate given in Table 5 below. Respective controlled releases will be reduced to L2 releases in Tables 4a through 4g, or lower.

ix. To more naturally effect downward or upward transitions between discharge mitigation releases rates identified in Tables 4a through 4g, discharge mitigation releases rates may be ramped, in cooperation with NYSDEC, generally over a

period of three days at Cannonsville and Pepacton Reservoirs, and two days at Neversink Reservoir.

x. Modifications to the program necessary to accommodate emergencies, maintenance and repair operations or short-term needs are addressed herein in Section 17, Temporary Suspension or Modification.

Table 5
Maximum Combined Discharge Rates

Reservoir	*Maximum Combined Discharge Rate (cfs)*
Neversink	3,400
Pepacton	2,400
Cannonsville	4,200

8. SALINITY REPULSION

New York City will provide releases to protect the lower basin water supply from salt water movement up the Delaware River in accordance with Table 2 of the Interstate Water Management Recommendations of the Parties to the U.S. Supreme Court Decree of 1954 to the Delaware River Basin Commission pursuant to Delaware River Basin Commission Resolution 78-20 (Good Faith Agreement). As stipulated in the Good Faith Agreement and in accordance with Table 2, herein (Interstate Operation Formula For Adjusting Montague And Trenton Flow Objectives During Drought Emergency (L5) Operations), the City shall make releases to meet the Montague flow objectives according to the location of the salt front.

9. DWARF WEDGEMUSSELS

The Decree Parties will consider any modifications to the current program that may be necessary to avoid taking, harming, or adversely affecting dwarf wedgemussels based upon information from the U.S. Fish and Wildlife Service (USFWS). Studies currently underway by the USFWS and the USGS may inform such modifications, as new information becomes available. These studies will attempt to quantify any relationship between surface water discharge and groundwater flow and temperature at known dwarf wedgemussel sites in the upper Delaware during low flow conditions.

10. LAKE WALLENPAUPACK

The Decree Parties and the DRBC will consider any modifications to the Lake Wallenpaupack operations plan (DRBC Resolution 2002-33) proposed by the operators of Lake Wallenpaupack, if deemed feasible.

11. RECREATIONAL BOATING

The Decree Parties and the DRBC will review and evaluate proposed reservoir releases programs for supporting recreational boating activities in the upper basin, if deemed feasible.

12. ESTUARY AND BAY ECOLOGICAL HEALTH

The Decree Parties and the DRBC will review and evaluate available data during the implementation of the current program and will consider any modifications that may be necessary to maintain the ecological health of the Delaware Estuary and Bay including that of oysters, shellfish and endangered species. The focus of this FFMP element includes the upper Delaware Estuary, lower Delaware Estuary, and Delaware Bay, and such modifications shall be considered in accordance with the criteria described in Section 1.c.

13. WARM WATER AND MIGRATORY FISH

The Decree Parties and the DRBC will review and evaluate available information on the effects of implementation of the current program on warm water fishes that are found in the Delaware River and will consider any modifications to conserve native species of special concern and migratory species.

14. MONITORING AND REPORTING

During the term of this Agreement, temperature monitoring and accounting of IERQ use will be conducted as follows:

a. Temperature:

During the one-year term of the current Agreement, NYSDEC shall monitor water temperatures within the stream reaches defined and categorized in Section 6. NYSDEC will submit to the Decree Parties and to the DRBC, by April 30, 2016, a scientific report summarizing the observed temperatures and assessing biological implications with respect to the stated management goal and defined protection levels of the HPP.

b. IERQ:

In order to assess the extent to which the downbasin parties' rights in the IERQ are preserved under this Agreement, the River Master shall maintain an accounting of the quantity of daily releases from the NYC reservoirs in accordance with Tables 4a through 4g which are attributable to the 3.91 billion gallons (6,045 cfs-days) IERQ component of the tables.

15. REASSESSMENT STUDY

Decisions on the conduct of a water resources reassessment study will be informed by experience gained during the operation of the current program.

16. PERIODIC EVALUATION AND REVISION

The Decree Parties agree that during the entire effective period of this Agreement, as monitoring, reporting, and evaluation may show to be appropriate, the provisions of this Agreement specifying triggers for, and quantities of, releases may be revised through an adaptive management process to further enhance the overall natural resource and economic benefits derived from the releases from the City Delaware Basin Reservoirs. Any resultant action taken shall be subject to the unanimous approval of the Decree Parties.

New York City will continue to collaborate with the Decree Parties in the development of the OST as a flow management tool.

17. TEMPORARY SUSPENSION OR MODIFICATION

From time to time, the Decree Parties and the DRBC may agree that emergencies, maintenance and repair operations, short-term needs, or unanticipated effects of the FFMP may require temporary suspension or modification of one or more of the provisions herein. In considering such temporary suspensions or modifications, the Decree Parties and the DRBC may estimate probabilities and risks associated with such temporary suspensions or modifications. Any resultant action taken, other than modifications to the releases as provided below, shall require the unanimous approval of the Decree Parties.

The City shall provide reasonable advance notification to the Decree Parties, River Master and DRBC of any planned long-term cessation of diversions and/or changes in releases due to emergencies, maintenance and repair operations including possible tunnel shut downs. The City shall establish the scope of work and the work schedule for maintenance and repair operations and shall inform the Decree Parties and the DRBC of such plans as early as practicable. In the absence of unanimous approval of a modified releases schedule as may be required for purposes of necessary maintenance and repair, the City, acting in cooperation with the NYSDEC, will make releases to the best of its ability for the duration of the maintenance or repair work, provided, however, that releases shall be sufficient to meet the Montague flow objective in effect at the time.

Modifications to releases not to exceed seven (7) consecutive days for purposes of maintenance or repair of immediate necessity, or to avoid unreasonable fluctuations in releases, shall not require Decree Party approval, but shall be done in cooperation with NYSDEC, provided, however, that releases shall be sufficient to meet the Montague flow objective in effect at the time.

18. RESERVATIONS

Nothing contained herein shall be deemed to constitute a waiver or modification of, or limitation on, the Decree Parties rights under the Decree. This Agreement shall not be cited as precedent of any intention to waive or modify or limit such rights.

The Decree Parties have authorized certain actions, including but not limited to discharge mitigation releases, in this Agreement to assist in mitigating the impacts of flooding immediately below the NYC Delaware Basin Reservoirs. By incorporating flood mitigation as an objective and taking the actions provided herein, the Decree Parties do not create or assume any duties or obligations regarding flood mitigation or in any way modify any such duties or obligations that may be otherwise prescribed by law.

19. EFFECTIVE DATE

This Agreement shall take effect upon unanimous approval of the Decree Parties and shall expire on May 31, 2016, unless renewed as provided for in Section 20, or if the expiration date is revised.

20. RENEWAL AND REVISION

This Agreement may be revised only through the unanimous written agreement of the Decree Parties. This Agreement, and any unanimously agreed to revisions, may be renewed for an additional one-year period beginning June 1, 2016 by unanimous written agreement of the Decree Parties. If this Agreement is not renewed for an additional one-year period, prior to May 31, 2016, the Decree Parties agree to enter into good faith negotiations to determine a course of action in the absence of such renewal, as provided in Section 21, below.

21. REVERSION

Upon any failure by all Decree Parties to continue this Agreement, and any revisions to this Agreement, in accordance with Section 20, operations shall revert to those provided in DRBC Docket D-77-20 CP (Revised).

Agreement of the Parties to the
1954 U.S. Supreme Court Decree
Effective June 1, 2015

STATE OF DELAWARE

The State of Delaware hereby approves this Agreement of the Parties to the U.S. Supreme Court Decree of 1954 for a Flexible Flow Management Program with Operations Support Tool integration and recommends that this Agreement be submitted to the Delaware River Basin Commission for implementation as appropriate through rules, dockets and/ or resolutions, subject in each instance to the further agreement of the Parties as required by Section 3.3(a) of the Delaware River Basin Compact.

David R. Hunsch

Agreement of the Parties to the
1954 U.S. Supreme Court Decree
Effective June 1, 2015

STATE OF NEW JERSEY

The State of New Jersey hereby approves this Agreement of the Parties to the U.S. Supreme Court Decree of 1954 for a Flexible Flow Management Program with Operations Support Tool integration and recommends that this Agreement be submitted to the Delaware River Basin Commission for implementation as appropriate through rules, dockets and/ or resolutions, subject in each instance to the further agreement of the Parties as required by Section 3.3(a) of the Delaware River Basin Compact.

DANIEL M. KENNEDY
ASSISTANT COMMISSIONER
NJDEP

Agreement of the Parties to the
1954 U.S. Supreme Court Decree
Effective June 1, 2015

CITY OF NEW YORK

The City of New York hereby approves this Agreement of the Parties to the U.S. Supreme Court Decree of 1954 for a Flexible Flow Management Program with Operations Support Tool integration and recommends that this Agreement be submitted to the Delaware River Basin Commission for implementation as appropriate through rules, dockets and/ or resolutions, subject in each instance to the further agreement of the Parties as required by Section 3.3(a) of the Delaware River Basin Compact.

5/21/15

Agreement of the Parties to the
1954 U.S. Supreme Court Decree
Effective June 1, 2015

STATE OF NEW YORK

The State of New York hereby approves this Agreement of the Parties to the U.S. Supreme Court Decree of 1954 for a Flexible Flow Management Program with Operations Support Tool integration and recommends that this Agreement be submitted to the Delaware River Basin Commission for implementation as appropriate through rules, dockets and/ or resolutions, subject in each instance to the further agreement of the Parties as required by Section 3.3(a) of the Delaware River Basin Compact.

5/20/15

Agreement of the Parties to the
1954 U.S. Supreme Court Decree
Effective June 1, 2015

COMMONWEALTH OF PENNSYLVANIA

The Commonwealth of Pennsylvania hereby approves this Agreement of the Parties to the U.S. Supreme Court Decree of 1954 for a Flexible Flow Management Program with Operations Support Tool integration and recommends that this Agreement be submitted to the Delaware River Basin Commission for implementation as appropriate through rules, dockets and/ or resolutions, subject in each instance to the further agreement of the Parties as required by Section 3.3(a) of the Delaware River Basin Compact.

5-20-15