

OFFICE OF THE COMMISSIONER

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May 26, 2017

Honorable Robert Martin
Commissioner
New Jersey Department of Environmental Protection
401 E. State St.
7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

Dear Commissioner Martin:

I am writing to express my concern that New Jersey has not yet agreed to an extension of the existing Flexible Flow Management Program (FFMP), which expires on May 31, 2017. The termination of the existing FFMP program risks a reversion to a severely dated and environmentally damaging operating plan (DRBC Docket D-77-20 CP (Revised), "Revision 1") which would, among other impacts, reduce the amount of trout habitat classified as "excellent" by 75% and harm the economy of river businesses that rely on this world-class recreational fishery. Reverting to Revision 1 also provides the potential to increase flooding in both New York and New Jersey, and ensures that improvement to Delaware River flows which New York City has planned to undertake will not occur. To avoid these negative impacts, I urge your immediate support for continuation of the existing FFMP which benefits all Decree Parties.

The benefits of continuing the FFMP include:

- A flexible and constructive use of excess flows, including decreases in salinity and support for aquatic habitats.
- A spill mitigation protocol which benefits those who live and work in the Delaware River's floodplain, including many New Jersey residents.
- An increased out-of-basin diversion for New Jersey during drought emergencies that can improve groundwater levels, maintain recreational levels in New Jersey reservoirs, and reduce pumping costs.

Additionally, should the existing FFMP be extended, the Decree Parties can seek to adopt the following potential enhancements:



- Improvements to the snowmelt calculation to reduce the frequency of high rate Spill Mitigation Releases and improve estimates of “Forecast Available Water.” New York City has developed one of the most sophisticated snowpack monitoring systems in the country. However, it cannot be fully incorporated into reservoir operations without modifying the FFMP.
- An improved spill mitigation procedure, including larger reservoir voids, that aims to reduce some of the flood damage from storms, without significantly increasing the frequency or severity of drought conditions.
- An increased out-of-basin diversion for New Jersey during drought emergencies that would be available on a semi-permanent basis, allowing New Jersey to allocate this water for public water supply.

New Jersey is predicating any further discussions of the FFMP upon a review of flows from New York City water supply reservoirs located outside of the Delaware River Basin. However, waters outside of the Delaware River Basin cannot be part of the discussion because the operation of these reservoirs is governed by New York State and Federal law and codified in numerous regulations and court decisions. Because of these laws, regulations and decisions, New York does not have any flexibility to alter the character or amount of those flows. As an alternative, the re-allocation of surplus storage in F.E. Walter Reservoir has the potential to allow many operational improvements to the benefit of all parties through the optimization of water usage. I urge you to give this option, which is supported by the other Decree Parties, detailed consideration.

The collaboration of all of the Decree Parties on the Delaware River should be undertaken with a realistic sense of what is attainable. All other parties have expressed a willingness to consider a one-year extension of the existing FFMP while we work toward further progress. Significant time will be needed for a thorough review of any new or modified agreement. I urge you to immediately agree to an extension of the FFMP to avoid the environmental damage caused by a return to the Revision 1 operating plan.

Sincerely,



Basil Seggos
Commissioner