

A RESOLUTION to amend the Comprehensive Plan and the Water Code relating to the operation of Lake Wallenpaupack during drought watch, drought warning and drought conditions.

WHEREAS, Sections 2.5.3 and 2.5.4 of the Water Code specify criteria defining “basinwide drought” and “basinwide drought warning;” and

WHEREAS, Section 2.5.5 of the Water Code specifies how the Commission may direct operation of Lake Wallenpaupack during basinwide drought, in accordance with Table 2 therein, “Lake Wallenpaupack Elevation Schedule During Drought Conditions” (“Table 2”); and

WHEREAS, Table 2 currently reflects total storage in Lake Wallenpaupack of 29.8 billion gallons (“bg”) available for drought operation; and

WHEREAS, Section 2.5.6 of the Water Code establishes criteria defining “lower basin drought” and “lower basin drought warning,” and specifies how the Commission may direct operation of Lake Wallenpaupack during lower basin drought in accordance with Table 2; and

WHEREAS, in Docket No. D-77-20 CP (Revised), the Commission has temporarily modified the criteria defining basinwide drought warning and has specified criteria defining “basinwide drought watch;” and

WHEREAS, PPL Holtwood, LLC (“PPL”) has proposed to the Commission that the Water Code be revised to reflect the availability of an additional 4.1 bg of storage in Lake Wallenpaupack for basinwide and lower basin drought operation as directed by the Commission, and for use during basinwide drought watch, basinwide drought warning and lower basin drought warning, also as directed by the Commission, which proposal is herein called the “Proposed New Drought Operations Plan for Lake Wallenpaupack” (or “the proposal”); and

WHEREAS, the Commission has developed a daily flow computer model called OASIS, which PPL has modified to include Lake Wallenpaupack as an operating reservoir; and

WHEREAS, PPL submitted to the Commission the report “Analysis of a New Drought Operations Plan for Lake Wallenpaupack – Final Report,” dated January 2002 (“Final Report”), which presents the results of PPL’s analysis of the Proposed New Drought Operations Plan for Lake Wallenpaupack using the OASIS model and demonstrates the benefits of the proposal to the basin; and

WHEREAS, the benefits to the basin set forth in the Final Report include: reduced drought frequency and intensity, reduced incidence of cutbacks in conservation, directed and thermal releases, and reduced incidence of cutbacks in diversions of Delaware Basin water to New York City and the State of New Jersey; and

WHEREAS, Lake Wallenpaupack is a component of PPL’s Lake Wallenpaupack Hydroelectric Project licensed by the Federal Energy Regulatory Commission (“FERC”); and

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\* The credit granted to PPL by paragraph 2 of this resolution was extended until May 31, 2005 by Resolution No. 2003-26.

WHEREAS, the FERC license for the Lake Wallenpaupack Hydroelectric Project expires in September 2004, and PPL is preparing an application to the FERC for a new license, which application must be submitted to FERC no later than September 30, 2002; and

WHEREAS, PPL's Martins Creek and Lower Mount Bethel generating stations and unidentified PPL potential future generating facilities in the basin may require a combined dedicated water supply of up to 10,000 acre feet (approximately 3.3 bg) per year to satisfy the Commission's consumptive water use compensation requirement; and

WHEREAS, PPL proposes to satisfy the Commission's consumptive water use compensation requirement for PPL's existing and potential future generating facilities in the basin through the Proposed New Drought Operations Plan for Lake Wallenpaupack for a credit of up to 10,000 acre feet of water per year toward satisfaction of the requirement; and

WHEREAS, the Proposed New Drought Operations Plan for Lake Wallenpaupack would:

- preserve lake elevations for recreation;
- accommodate project operation to enhance conditions in the Lackawaxen River;
- sustain the project's capability to produce peaking and emergency electricity;
- assure refill of the lake by June 1<sup>st</sup> in most years;
- make additional storage in Lake Wallenpaupack available to satisfy the Montague flow objective during drought watch, drought warning and drought conditions; and
- allow for the conservation of storage in the three New York City Delaware Basin reservoirs; and

WHEREAS, under some conditions, the proposal would increase the quantity of water from the New York City Delaware Basin reservoirs required to meet temperature objectives in the reservoir tailwaters, but these releases would be offset by the availability of increased storage in the reservoirs; and

WHEREAS, an interim minimum flow target established for the West Branch Delaware River by the parties to the 1954 Supreme Court Decree will remain in effect notwithstanding any increase in releases from Lake Wallenpaupack under the proposal; and

WHEREAS, PPL has performed a comparison of its proposal with the alternative of gallon for gallon replacement by Lake Wallenpaupack of depletive use by its generating units and has demonstrated that gallon for gallon replacement results in comparatively greater use of storage in the Upper Basin and increased incidence of basinwide drought conditions; and

WHEREAS, the Commission's Flow Management Technical Advisory Committee has reviewed the results of PPL's analysis of the Proposed New Drought Operations Plan for Lake Wallenpaupack and has recommended, with the concurrence of New York City, that the Commission accept PPL's Proposed New Drought Operations Plan and grant to PPL its proposed consumptive water use compensation credit, and that the Comprehensive Plan and the Water Code be amended accordingly; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Comprehensive Plan and Article 2, Sections 2.5.5 and 2.5.6 of the Water Code of the Delaware River Basin are amended as indicated in paragraphs 1.A through 1.F, below, to permit the Commission to direct operation of Lake Wallenpaupack during all drought operations, in accordance with Table 2 of Section 2.5.5 as hereby revised. It is understood that any and all provisions pertaining to the operation of Lake Wallenpaupack during basinwide drought warning also apply to basinwide drought watch as temporarily defined by the Commission in Docket No. D-77-20 CP (Revised); reference to "drought watch" is noted in brackets "[ ]" for clarity herein but is not to be included in the amended Water Code at this time.

- A. The following sentence is added at the end of the first paragraph of Section 2.5.5:

Lake Wallenpaupack also may be utilized to complement the drought management operations of the New York City reservoirs during "drought warning" [and drought watch] conditions as defined by Figure 1 in Section 2.5.3A.

- B. The second paragraph of Section 2.5.5 (beginning "Lake Wallenpaupack and the Mongaup reservoirs ...") is revised as follows, beginning with the third sentence:

During "drought" and "drought warning" [and drought watch] conditions, as defined in Figure 1 of Section 2.5.3.A of the Water Code, the power companies shall release water only in accordance with Commission direction. The Lake Wallenpaupack elevation schedules during normal, drought warning, [drought watch,] and drought conditions are set forth in Table 2. The lake elevations in Table 2 have been established to preserve the recreation values and other operational benefits of the lake while also providing water storage to be utilized at the direction of the Commission during the Commission's drought operations as set forth in this section and in Section 2.5.6. The utilization of Lake Wallenpaupack at the direction of the Commission during the Commission's drought operations shall be conditioned upon the following:

1. Utilization of Lake Wallenpaupack during drought warning [and watch] shall be consistent with PPL's FERC license and power generation requirements as well as with lake and downstream needs.
2. During drought, PPL may, at the Commission's direction, operate for power production when the lake elevation is above the following first-of-month "normal elevation" as defined in Table 2.
3. During a declared power emergency, PPL may operate for power production regardless of lake elevation.
4. Subject to the concurrence of the Commission, in response to changing electrical demand patterns, PPL may revise the lake elevations for "normal conditions" shown in Table 2.

C. Table 2 of Section 2.5.5 is revised in its entirety, as follows:

TABLE 2. LAKE WALLENPAUPACK ELEVATION SCHEDULES

Day	Normal Conditions	Drought Warning [and Watch]	Drought
June 1	1187.0	1187.0	1187.0
July 1	1185.0	1185.0	1185.0
August 1	1183.0 <sup>1</sup>	1183.0 <sup>1</sup>	1183.0 <sup>1</sup>
September 1	1181.0	1180.0	1179.0
October 1	1179.0	1176.0	1175.0
November 1	1181.0	1172.0	1171.0
December 1	1182.0	1167.5	1167.5
January 1	1183.0	1170.1	1170.1
February 1	1181.5	1173.3	1173.3
March 1	1180.0	1175.6	1175.6
April 1	1182.3	1182.3	1182.3
May 1	1185.6	1185.6	1185.6

<sup>1</sup> The existing FERC license for the Lake Wallenpaupack Hydroelectric Project requires that, except when flood waters are being stored, the maximum elevation of the lake shall be limited to elevation 1182.0 between August 1 and November 15 of each year (Article 41). In its application to the FERC for a new license, PPL seeks to include the drought condition lake elevation schedules in Table 2 on a permanent basis, including a lake elevation of 1183.0 on August 1. In the interim, until the FERC issues a new license, PPL will request annual approval from the FERC to operate the lake in accordance with Table 2 during the August 1-November 15 period. PPL will notify the Commission of the FERC's response to each annual request. If in any year FERC does not approve a change to the lake elevation to 1183.0 or does not include it as a term of the new license, then this elevation shall be deemed to be 1182.0 in that year.

D. Subsection C.3.c is added to Section 2.5.6, as follows:

- c. The Commission may direct releases from Lake Wallenpaupack subject to the same conditions as applied to operation during lower basin drought in D.3.e, except that utilization of Lake Wallenpaupack during lower basin drought warning shall be consistent with PPL's FERC license and power generation requirements as well as with lake and downstream needs.

E. At Subsection D.3.b.iv of Section 2.5.6, the volume of storage assigned to Lake Wallenpaupack is revised to 33.9 bg from 29.81 bg.

F. A second sentence is added to Subsection D.3.e.i of Section 2.5.6 as follows:

During drought, PPL may, at the Commission's direction, operate for power production when the lake elevation is above the following first-of-month "normal elevation" as defined in Table 2 and during a power emergency declared by the regional electric system operator (currently P.J.M. Interconnection, L.L.C.) regardless of lake elevation.

2. The Commission hereby grants PPL a credit to satisfy the Commission's consumptive use compensation requirement for PPL's existing generating facilities in the basin and facilities it may construct or acquire in the basin in the future. During any period from June 1 to the following May 31, the credit shall be equal to the amount of consumptive water use compensation otherwise required by PPL's generating facilities but in no event shall the credit exceed 10,000 acre feet (approximately 3.3 bg). The credit shall be used only by PPL and successor owners of generating facilities currently owned by PPL, or that are constructed or acquired by PPL in the future and in which PPL acquires at least a 20% interest ("qualified entities"). PPL and its successors shall obtain the Executive Director's written approval in advance of a transfer of the credit or any portion of the credit. Such approval shall be granted upon a showing that the transferee is a qualified entity and that proper accounting for the credit is assured, either through an operating plan approved by the Executive Director, or through such other means as she deems appropriate. Should the Executive Director determine that the Commission will incur costs associated with accounting for the credit that in her view are significant, she may impose those costs on the credit holders.
3. The parties to the United States Supreme Court Decree in *New Jersey v. New York*, 347 U.S. 995 (1954) shall utilize their best efforts to agree by unanimous consent on or before May 7, 2003 upon a reservoir releases program for the New York City Delaware River Basin reservoirs that ameliorates any adverse impact of releases from Lake Wallenpaupack associated with this Resolution.
4. Unless and until the parties to the Supreme Court Decree unanimously agree upon a reservoir releases program and the Commission approves that program,
  - a. the Commission shall continue to order releases of water from Lake Wallenpaupack pursuant to its current drought operating plan. If required by the preceding sentence, the Commission may order the reduction in the August 1, 2003 elevation of Lake Wallenpaupack to 1182 feet. Notwithstanding the forgoing, the Commission may order the release of the additional storage in Lake Wallenpaupack provided by the changes in lake elevations authorized by the Resolution if no viable alternative water source exists, and

- b. The credit granted to PPL pursuant to paragraph 2 of this Resolution to satisfy the Commission's consumptive use compensation requirement shall expire on December 3, 2003, unless and until there is unanimous consent pursuant to paragraph 3.

/s/ Irene B. Brooks  
Irene B. Brooks, Chairman *pro tem*

/s/ Pamela M. Bush  
Pamela M. Bush, Esq. Commission Secretary

ADOPTED: November 25, 2002