

BEFORE THE  
DELAWARE RIVER BASIN COMMISSION

\* \* \* \* \*

BUSINESS MEETING (excerpts)

and

PUBLIC HEARING

In re: Resolution to approve an  
Interim Reservoir Operating Program  
for the New York City Delaware Basin  
Reservoirs, pending completion of  
rulemaking on Water Code amendments to  
implement a Flexible Flow Management  
Program (FFMP)

\* \* \* \* \*

BEFORE: CATHLEEN CURRAN MYERS, Chair  
Brig. Gen. Todd T. Semonite  
Michelle Putnam, Dr. Harry  
Otto, Mark Klotz, Kevin C.  
Donnelly, Dr. Joseph Miri  
Commissioners

MEETING: Wednesday,  
September 26, 2007  
10:30 a.m.

LOCATION: DRBC  
25 State Police Drive  
West Trenton, NJ

DRBC: CAROL COLLIER,

Executive Director

ROBERT TUDOR,

Deputy Executive Director

PAMELA BUSH, ESQUIRE,

Commission Secretary and  
Assistant General Counsel

KENNETH J. WARREN, ESQUIRE,

General Counsel

RICHARD GORE,

Chief Administrative Officer

PRESENTERS: Stephen Blanchard, Gary

Paulachok, Dr. Durbhakula

Muralidhar, William Muszynski

COMMENTERS: Jerry Becker, Mary Ann

Bogen, Scott Burgess, Tracy

Carluccio, Chris Crockett, Mary Lee

Delahanty, Alan Ellsworth, Pete

Grouson, Mark Hardle, Lee Harkin,

Mack Hlivko, Charles Liegel, Eleanor

Miller, Tom Murphy, Mary Ellen

Noble, Gail Pedrick, Jeff Tittle,

Joe Piscalasko, Dan Plummer,

COMMENTERS(cont.): Tim Pryor, Elaine  
Reichart, Dinah Rush, William  
Rosebrock, Jeffrey Russo, Jim Serio,  
Val Sigstedt, Mary Ann Slogan, Ed  
Smith, Tom Scanapico, Jeff Till,  
Jeff Zimmerman

Reporter: Sharon Marsh

Any reproduction of this transcript  
is prohibited without authorization  
by the certifying agency.

## I N D E X

1		
2		
3	<u>MORNING SESSION (excerpt)</u>	
4	PRESENTATION ON FFMP	
5	by Mr. Blanchard	7 - 13
6	QUESTIONS & COMMENTS	13 - 28
7	<u>AFTERNOON SESSION (excerpts)</u>	
8	EXECUTIVE DIRECTOR'S REPORT	
9	by Ms. Collier	28 - 39
10	GENERAL COUNSEL'S REPORT	
11	by Mr. Warren	40 - 56
12	<u>PUBLIC HEARING</u>	
13	PRESENTATION: FFMP	
14	by Mr. Blanchard	59 - 69
15	by Mr. Paulachok	69 - 75
16	by Dr. Muralidhar	75 - 86
17	by Mr. Paulachok	104 - 109
18	QUESTIONS & COMMENTS	110 - 146
19	FFMP/REV. 1 COMPARISON	
20	by Mr. Muszynski	147 - 155
21	PRESENTATION & DISCUSSION	
22	OF THE RESOLUTION	160 - 175
23	PUBLIC COMMENTS	175 - 307
24	CERTIFICATE	309
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

-----  
MORNING SESSION (excerpts)

CHAIR:

Last and final item is a report on the status of the Flexible Flow Management Program proposal. We've got Steve Blanchard and Mr. Paulachok.

MR. BLANCHARD:

Since we have this item on the agenda both this morning and this afternoon, I intended this morning's presentation just to be a real quick overview, very high level summary of the FFMP and the status, and this afternoon we can get into more detail about the program and have more discussion and comments on it, if that's acceptable. Very briefly.

CHAIR:

1                   Let me just preface so  
2                   that no one --- it may be in  
3                   the report, but it bears  
4                   repeating.

5                   No action is being taken  
6                   by the Commission today. What  
7                   we are happy to report though,  
8                   is the first big step, which is  
9                   agreement among the parties  
10                  that have rights regarding the  
11                  management of New York City  
12                  reservoirs have come to an  
13                  agreement about how we can  
14                  better manage those reservoirs  
15                  and provide as much flood  
16                  protection as we can, while  
17                  being diligent enough in  
18                  protecting our water supply and  
19                  trying to still squeeze out  
20                  some water --- actually more  
21                  water at the right times for  
22                  the fisheries.

23                  We're trying to  
24                  accomplish multiple things at  
25                  once, do them all well. We

1 think we have a step towards  
2 that and we many need to have  
3 many steps in the future, but  
4 start to get a grip on some  
5 ways we can go about this.  
6 Thanks, Gary.

7 MR. BLANCHARD:

8 The reason the River  
9 Master's Office is making the  
10 presentation is we currently  
11 chair the work group that's  
12 been developing the FFMP.  
13 Prior to two, three months ago  
14 it was Bill Gast of the state  
15 of Pennsylvania that chaired  
16 that. With his retirement, the  
17 principals agreed to have the  
18 River Master's Office chair the  
19 work group.

20 What I'm going to do is  
21 just give you a real high-level  
22 big picture overview of the  
23 FFMP. First of all, why an  
24 FFMP? Well, the Decree that  
25 was established back in 1954

1 primarily focused just on water  
2 supply needs. Since that time  
3 we've been aware of many other  
4 needs that have arisen for the  
5 use of that water.

6 So the FFMP is an  
7 attempt to provide a more  
8 adaptable means of managing  
9 multiple and fleeting use of  
10 the storage with a sustainable  
11 source of water.

12 So first of all, the  
13 Flexible Flow Management  
14 Program is a set of rules that  
15 manage both the storage, the  
16 diversions, the releases and  
17 the flow targets, and it  
18 relates to the apportioning of  
19 the water of the Delaware River  
20 Basin. That was 1954 Decree.

21 The FFMP would replace  
22 the current Rev. 7 and Rev. 9  
23 that are due to expire on the  
24 30th, and then pending the DRBC  
25 action the FFMP would also



1           modify certain provisions of  
2           the DRBC Water Code relating to  
3           the Montague flow target and  
4           the New Jersey diversions  
5           during the DRBC drought  
6           operation. That reiterates  
7           what Cathy had mentioned.

8                         The features of the FFMP  
9           include management of the water  
10          supply diversions to New York  
11          City and New Jersey,  
12          conservation releases for the  
13          fishery management program,  
14          direct releases for flow target  
15          both in Montague and Trenton  
16          and reservoir discharge  
17          mitigation related to flooding.

18                        It also provides for a  
19          more natural varying pattern of  
20          conservation releases, not just  
21          ramping up or ramping down  
22          based on meeting flow targets.

23                        And then the FFMP also  
24          allows for adjustments based on  
25          an annual review, and results

1 and new information that's  
2 provided to the principals.

3 So changing from the  
4 current program to key changes  
5 include conservation releases  
6 from New York City reservoirs  
7 that are directly related to  
8 storage levels in those  
9 reservoirs, no longer being  
10 directed by banks. Discharge  
11 mitigation trigger criteria,  
12 that releases based on 75  
13 percent rather than the 80  
14 percent storage threshold  
15 curve. Montague flow target  
16 during the DRBC drought  
17 operations is not linked to  
18 SLAMI (phonetic). Minimum flow  
19 diversions for New Jersey's D&R  
20 Canal of 85 million gallons per  
21 day during drought warning  
22 drought operations. That's a  
23 slight increase than what they  
24 have now.

25 So the FFMP has been in

1 development over the last three  
2 plus years, developed through  
3 negotiations of the five  
4 parties that were stated in the  
5 Decree.

6 A draft FFMP was made  
7 available for public comment  
8 back in February. Some public  
9 meetings were held. The  
10 comments received were factored  
11 into the committee  
12 deliberations.

13 The Tailwaters Habitat  
14 Protection and Discharge  
15 Mitigation Program, which is a  
16 component of the FFMP, was  
17 developed with lots of input  
18 from various states and  
19 conservation groups.

20 The discharge mitigation  
21 component was developed by the  
22 Decree Parties based on some of  
23 the comments it received during  
24 that public meeting and other  
25 input.

1                   The conservation release  
2                   program was developed through  
3                   daily flow modeling using the  
4                   OASIS model, evaluation of the  
5                   USDS Decision Support System  
6                   for ecological habitat that was  
7                   developed through the USDS  
8                   biology discipline and past  
9                   fishery program management  
10                  experienced by New York State.

11                  And then the major  
12                  constraint overriding much of  
13                  the FFMP was not to increase  
14                  the number of drought days.

15                  And so the last slide  
16                  here just tells you where we  
17                  are. The Parties have reached  
18                  agreement on this, the Decree  
19                  Parties. They've agreed to the  
20                  FFMP. The document will be  
21                  signed and put into place on or  
22                  before October 1st.

23                  We will then post the  
24                  FFMP on the River Master site,  
25                  most likely by tomorrow, and

1 the DRBC will then begin their  
2 rulemaking process, and again,  
3 establishing Water Code and  
4 public comment.

5 That is just a real  
6 quick overview of the FFMP, the  
7 major components of it, the  
8 development of it and current  
9 status. And again, this  
10 afternoon we'll get into much  
11 more detail about the major  
12 components of the FFMP. And  
13 I'll stop there.

14 CHAIR:

15 Thank you. Questions of  
16 Steve? Comments from the  
17 Commissioners? Mary Ellen?

18 MS. NOBLE:

19 Does this differ  
20 significantly from the text  
21 from February? Were the  
22 changes to the release schedule  
23 dealt with in the summer?

24 MR. BLANCHARD:

25 I will refer that

1 question to the working  
2 members. Gary or Dr.  
3 Muralidhar?

4 MR. PAULACHOK:

5 There would be specific  
6 differences. We can give you  
7 specific differences, and I  
8 suggest maybe this afternoon we  
9 can get into specific aspects.  
10 For example, there are higher  
11 releases during certain periods  
12 relative to the earlier  
13 document. That's one example.

14 CHAIR:

15 So there is another  
16 increment on flood  
17 mitigation provided ---

18 MR. PAULACHOK:

19 Yes, for sure.

20 CHAIR:

21 --- beyond what you've  
22 seen before. We squeezed a  
23 little more out of it when we  
24 saw more model runs, and  
25 thought we could safely go a

1           little bit lower in making  
2           releases than 75 percent.

3                         MR. PAULACHOK:

4                         The flood mitigation is  
5                         just one example. There are  
6                         incremental improvements in  
7                         other areas as well.

8                         CHAIR:

9                         Just to be clear, this  
10                        won't go into effect as a  
11                        basin-wide rule until we've had  
12                        full public process, proposed  
13                        and final rulemaking. We're  
14                        starting that. We'll put it on  
15                        the web site either today or  
16                        tomorrow so everybody can look  
17                        at the details. A lot of it  
18                        will be very similar to what  
19                        you saw before in that public  
20                        comment, public hearing. But  
21                        there are some what we call  
22                        improvements to each area: a  
23                        little more for fisheries, a  
24                        little more flood protection.  
25                        We're still protecting our

1 water supplies both in New York  
2 City and for Philadelphia and  
3 Trenton.

4 We'll keep running  
5 models like that and are trying  
6 to evaluate all the  
7 consequences of making those  
8 changes. We'll be looking  
9 carefully at it, initiate our  
10 rulemaking.

11 Because I think we've  
12 got something we can --- it's a  
13 good framework for the long  
14 term, which means we can now  
15 put it in regulation and have a  
16 full debate, a full discussion  
17 on all those issues with the  
18 view towards getting that done  
19 and that being the framework  
20 for moving forward. But it's  
21 an adaptive framework, which is  
22 why we call it a Flexible Flow  
23 Management Program.

24 I think, backing up, how  
25 we got here was we started out



1 with a basin that's mostly  
2 troubled by drinking water  
3 supply shortage and drought  
4 concerns, and we learned how to  
5 manage it pretty well for that  
6 one purpose for 40 years.

7 As we sent water down  
8 the stream we've created a  
9 wonderful fishery as well. We  
10 can figure out how to do this  
11 just not accidentally as the  
12 consequence of sending water  
13 down to push back the salt  
14 front. Look at the habitat  
15 benefits we've gotten. Let's  
16 think about that more  
17 scientifically and let's add  
18 that to our goals. So we  
19 created the bank to do that,  
20 separate and apart from the  
21 rule curves for operating the  
22 reservoirs. We've had to do  
23 those two things at once.

24 Then we got hit with  
25 floods. And we said ooo, well,

1           couldn't we do something with  
2           our infrastructure that helps  
3           us with flooding? And the  
4           answer is, we can do something  
5           and we should do something, so  
6           we looked into what we could do  
7           safely without jeopardizing the  
8           water supplies, and so we're  
9           asking to do three things at  
10          once now. Provide as much  
11          storage as we can while keeping  
12          the reservoirs as full as we  
13          can, which is a little tricky.

14                        So looking at those  
15          things, all three together,  
16          plus others, but those are the  
17          three key issues, which is  
18          before us. So we looked around  
19          and said, you know, we really  
20          need to bring this back to one  
21          set of curves that are looking  
22          at maximizing all of our goals  
23          and any time we have additional  
24          needs, we would be testing it  
25          against harm to any one of

1           those goals. So this is our  
2           effort to get it together so  
3           that when we have an event like  
4           a drought or a flood, we're  
5           sure we're looking at whatever  
6           changes we make what the  
7           consequences are for everyone  
8           in the basin, not just the  
9           people presently before us.

10                         This will give us a much  
11           better baseline to work with.  
12           It's not the last word, but  
13           it's our current best thinking  
14           and everyone we talk to agrees  
15           that it's better than anything  
16           we've done so far.

17                         And we hope as we learn  
18           into next year and we get some  
19           more of the models done that  
20           are working now, we'll be  
21           bringing another improvement in  
22           the next year. But this is, we  
23           think, a good framework so we  
24           want get those regulations, and  
25           that's what we'll be announcing

1           this afternoon, and in the next  
2           few days we'll be actually  
3           going over proposed rules based  
4           on this. Would you like to  
5           comment on that, or ask a  
6           question?

7                     MS. REICHART:

8                     Just a point of  
9                     clarification, does this mean  
10                    if the signing is on or before  
11                    October 1st, does that mean  
12                    it's going to be implemented  
13                    October 1st?

14                    CHAIR:

15                    Yes. The other programs  
16                    expire on the 1st.

17                    MS. REICHART:

18                    Yes.

19                    This is going to be the  
20                    interim plan plus the current  
21                    plan?

22                    CHAIR:

23                    It's the interim plan  
24                    and then there'll be a  
25                    rulemaking. The Commission and

1 the public will decide to vote  
2 on what we do with the basin.

3 MR. WARREN:

4 Could you say your name  
5 for the benefit of the  
6 reporter?

7 MS. REICHART:

8 My name is Elaine  
9 Reichart. I'm part of the  
10 Aquatic Conservation Unlimited  
11 group.

12 MR. WARREN:

13 As we'll explain a bit  
14 more fully this afternoon, the  
15 Commission is not making the  
16 decision to implement this, but  
17 it may be implemented and the  
18 Commission will then use its  
19 discretion not to interfere in  
20 that implementation. But it  
21 won't be a decision today of  
22 the Commission to implement it.  
23 And then when you say it's  
24 final plan, well any final plan  
25 that the Commission should

1 choose to adopt by way of  
2 regulation may be somewhat  
3 different depending upon the  
4 comments that are received  
5 during the rulemaking process,  
6 and ultimately whether or not  
7 those regulations as they may  
8 be amended in light of the  
9 comments are consented to by  
10 the Decree Parties, which is  
11 what our Compact requires.

12 CHAIR:

13 I should be very  
14 careful, because I wasn't  
15 speaking as Chairman. I was  
16 speaking as a Decree Party. I  
17 represent Pennsylvania as one  
18 of the Decree Parties that has  
19 rights in the reservoirs. So  
20 we all have to agree to any  
21 changes in the operation that  
22 affect our rights in those  
23 reservoirs. We have an  
24 agreement that benefits all of  
25 us, so we're intending to do it

1           that way instead of the old  
2           way, which is --- has no flood  
3           mitigation in it.

4                        So that's what we're  
5           going forward with in terms of  
6           interim reservoir operations  
7           and this Commission has just  
8           received that and we'll do a  
9           full rulemaking process, and  
10          consider comments before it  
11          decides whether it wants to  
12          adopt those rules on what the  
13          Decree Parties have agreed to  
14          among themselves.

15                       We'll get into more  
16          about that this afternoon,  
17          clarify questions for ---.

18                       MS. TRACY CARLUCCIO:

19                       Tracy Carluccio with the  
20          Delaware Riverkeeper Network.  
21          What is the hearing on this  
22          afternoon if it's not a public  
23          discussion of the agreement?  
24          What is the action of the  
25          Commission?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIR:

The action is to announce that we're going to go to proposed rulemaking and put the agreement out, and we're going to ask staff to modify the Water Code in a manner that would reflect the agreement and put that out as a proposed rule. We'll want to go ahead and do that as quickly as we can, so we'll want to announce that that sort of --- the resolution will be that we plan to do that and get a proposed rule out to you all to incorporate the FFMP for public discussion, comment and action at a subsequent meeting.

MS. TRACY CARLUCCIO:

But is there a public hearing record being created this afternoon?

CHAIR:

Yeah. We'll take --- we



1           took public comment before when  
2           we had a preliminary FFMP, so  
3           we'll take public comment today  
4           as well on what you're thinking

5                     MS. TRACY CARLUCCIO:

6                     We'll comment this  
7                     afternoon, but we want a  
8                     struggle protest. We do not  
9                     believe these agreement  
10                    discussions should be held. I  
11                    want to put that on the record  
12                    right now.

13                    MR. ZIMMERMAN:

14                    Question. This is Jeff  
15                    Zimmerman, North Delaware  
16                    Watershed Conservancy.  
17                    Probably, but I'm not certain,  
18                    the parties that are going to  
19                    approve this agreement are the  
20                    Decree Parties?

21                    MR. WARREN:

22                    Yes, the Decree Parties  
23                    have reached an agreement.  
24                    That's correct.

25                    MR. ZIMMERMAN:

1                   General, is the United  
2                   States are going to approve  
3                   this agreement?

4                   GEN. SEMONITE:

5                   It's premature for us to  
6                   say that as a member of this  
7                   Commission just as was spoken  
8                   earlier. This is an agreement  
9                   between the Decree Parties in  
10                  which the federal government is  
11                  not a member, so once it comes  
12                  to this forum officially, then  
13                  the federal government will  
14                  have a position at that time.

15                  MR. WARREN:

16                  Steve, the River Master  
17                  is not signing this agreement,  
18                  either?

19                  MR. BLANCHARD:

20                  No, we don't sign. We  
21                  just carry out the provisions  
22                  of the Decree, what the Decree  
23                  Parties put in place. We  
24                  administer that.

25                  CHAIR:

1                   The Decree is posted on  
2                   their web site, in case you're  
3                   interested.

4                   MR. ZIMMERMAN:

5                   No, no, I have that. I  
6                   know the decree.

7                   CHAIR:

8                   It defines the role of  
9                   the River Master.

10                  MR. ZIMMERMAN:

11                  One follow-up question  
12                  though. Is this going to  
13                  result in the Decree Parties  
14                  going back to the Supreme Court  
15                  and asking for a modification  
16                  of the Decree?

17                  MR. BLANCHARD:

18                  That would be a question  
19                  that should be directed to the  
20                  Decree Parties. And since I  
21                  represent the Commission, I can  
22                  only give you my view that I  
23                  don't understand that is  
24                  necessarily the case, but that  
25                  won't be a decision of course

1 for me to make. That's the  
2 decision of the Decree Parties.

3 MR. ZIMMERMAN:

4 That's fair. Thank you.

5 CHAIR:

6 Thank you very much.

7 That's very helpful. Any other  
8 matters, Carol, for the  
9 Commission for the morning  
10 session?

11 MS. COLLIER:

12 No. I think that's it.

13 GEN. SEMONITE:

14 I'd just like to meet  
15 with the federal parties real  
16 quick, National Forestry and  
17 Wildlife, USDS, just out in the  
18 hallway in about five minutes.

19 AFTERNOON SESSION

20 EXECUTIVE DIRECTOR'S REPORT

21 CHAIR:

22 Next is Carol Collier's  
23 report, the Executive Director.

24 MS. COLLIER:

25 Okay. Just a couple of

1 things I wanted to mention.  
2 One, we have a new staff  
3 member, Maggie, Maggie Ailo is  
4 here. Maggie came to us from  
5 Montgomery County Conservation  
6 District, and has a background  
7 from Dickenson University where  
8 she was *Magna cum laude* and  
9 spent some time with the  
10 Alliance for Aquatic Resource  
11 Monitoring there, and has a  
12 strong background in wetlands  
13 and water quality. And we'll  
14 be working on Pennsylvania  
15 issues, Act 220, and helping  
16 with the state water plan and  
17 the Wissahickon project.  
18 There's Maggie.

19 On another staff issue,  
20 I also want you to know people  
21 who normally come to these  
22 meetings know that Paula  
23 Schmitt is not here. Paula  
24 actually had a heart attack and  
25 she's pretty known for that,

1 but she's doing well. Going to  
2 be back within a couple of  
3 weeks we hope, but I did want  
4 to thank all the other  
5 assistants who have really  
6 pitched in and done this  
7 together, so thank you.

8 This past couple of  
9 weeks we've been working on  
10 three really big efforts. One  
11 is PCBs, which is, you know,  
12 one of our bigger efforts, PCBs  
13 in the estuary. We had a  
14 successful meeting with EPA and  
15 with the states coming together  
16 on how we're going to implement  
17 those and move forward.

18 We also, folks who are  
19 here this morning, heard about  
20 the Special Protection Waters.  
21 There's an agenda item this  
22 afternoon. This is our keeping  
23 the clean water clean, really  
24 important for the upper basin,  
25 and that is moving forward and

1 we have a process to move that  
2 for public comment on that.

3 And finally flow  
4 management, and of course  
5 that's why most of you are  
6 here.

7 I would like to spend  
8 the rest of my time on that  
9 issue and also to discuss some  
10 of the information that's out  
11 on the streets. You know, one,  
12 DRBC takes no actions without a  
13 public process, and you heard  
14 this morning from the River  
15 Master that the parties to the  
16 Decree have come to a  
17 resolution on a program that  
18 will be advanced, but as it is,  
19 we are going to initiate a  
20 public process. And it will  
21 have a public --- it will have  
22 multiple public information  
23 sessions, public hearing,  
24 comment response and actually  
25 by the Commissioners. So this

1 is not your only opportunity to  
2 make comments on issues you may  
3 have with flow management,  
4 flood mitigation, et cetera.  
5 There will be a whole process  
6 that we're starting, and this  
7 afternoon we'll talk about a  
8 schedule.

9 What bothers me is many  
10 of the comments I've seen from  
11 organizations interested in  
12 this effort, especially flood  
13 mitigation, are not based on  
14 sound science. Making public  
15 policy is a messy process, no  
16 doubt about it. But the one  
17 thing it has to be based on is  
18 sound science and accurate  
19 information.

20 We have put together a  
21 little response document here  
22 called setting the record  
23 straight, and there are a  
24 number of copies, I believe, on  
25 the tables outside.



1                   I don't want to go  
2                   through this whole thing  
3                   because I know people are  
4                   anxious to speak this  
5                   afternoon, but I did want to  
6                   say a couple of things.

7                   One of the main things  
8                   is that there's a question  
9                   about what caused the floods.  
10                  Was it rain? Was it hydrology?  
11                  Was it meteorology, or was it  
12                  the reservoirs? The National  
13                  Weather Service has repeatedly  
14                  said excessive rainfall and  
15                  runoff were the primary cause  
16                  of the floods.

17                  And I just wanted to  
18                  note that Gary Satowski  
19                  (phonetic) from the National  
20                  Weather Service is here today  
21                  and has more information than I  
22                  could provide, so if we get  
23                  into those questions Gary has  
24                  offered to provide his guidance  
25                  on that.

1                   A couple of the other  
2                   issues. One, there seems to be  
3                   a feeling that the New York  
4                   City reservoirs are under a  
5                   different operating regime for  
6                   these past four years, where  
7                   New York City has been allowed  
8                   to have water up to a hundred  
9                   percent where they didn't use  
10                  to be allowed to do that.

11                  One, that is not true,  
12                  and DRBC does not require  
13                  reservoirs to be at or above  
14                  any capacity. The basis of  
15                  that, and it's been the basis  
16                  since the reservoirs were  
17                  created, is New York City wants  
18                  to have full reservoirs at the  
19                  beginning of the water year,  
20                  which to them is June 1st. And  
21                  so that has always been the  
22                  aim. The reason they look like  
23                  they're more full these past  
24                  four years is going back to  
25                  meteorology. It has been

1 really wet years, so there's  
2 been more water to store there.  
3 Other years it's been more what  
4 we see today. We're down to 60  
5 percent in the reservoirs  
6 because we haven't had that  
7 much rain. Okay.

8 Another one I wanted to  
9 mention is, it was said that  
10 DRBC profits from the sale of  
11 water stored in the New York  
12 City reservoirs, which isn't  
13 true. DRBC is an agency. It's  
14 an interstate federal agency,  
15 and we are not a water company.  
16 We don't sell water, we don't  
17 process water, et cetera. We  
18 make no funds from New York  
19 City reservoirs.

20 DRBC does have a water  
21 supply charge program that  
22 purposely built up a pot of  
23 money that we provide to the  
24 Corps of Engineers to store  
25 water in reservoirs, Blue Marsh

1 and Beltsville, the ones on the  
2 Lehigh River and Schuylkill for  
3 the exact purpose of having  
4 that water there so we can  
5 release it in times of drought.

6 And in fact, if anybody  
7 drove over from Pennsylvania  
8 today and drove across the  
9 river, you saw how low the  
10 river is getting, and it could  
11 be only a couple of days now  
12 when we have to call for  
13 releases from those reservoirs.

14 So there is a charge  
15 program for water users further  
16 down the basin, not New York  
17 City. We don't charge them for  
18 water, and the water charges  
19 have nothing to do with how  
20 much water is in New York City  
21 reservoirs, but the charge  
22 program we do have specifically  
23 supports drought mitigation.  
24 Let's see.

25 Another thing I wanted

1 to mention was that we are  
2 moving forward, not only with  
3 this flow regime, but looking  
4 at what the reservoirs can and  
5 can't do. The governors of the  
6 four states provided money to  
7 DRBC for the purposes of  
8 developing a model that could  
9 be used to show how the  
10 reservoirs would have acted  
11 during those past three storms  
12 with different void programs.  
13 So we can really use this model  
14 to test different scenarios to  
15 have a good science background  
16 on what we can do.

17 One of the reasons  
18 that's important is, one, we'll  
19 be able to really see what we  
20 can do for flood mitigation. I  
21 know many in this room are  
22 looking for a 20 percent void  
23 in the reservoirs. One, New  
24 York City couldn't do that  
25 right now if they wanted to, to

1           have a year round void just  
2           because of the outlet  
3           structures. They can't get  
4           water out of there fast enough.

5                         And the other issue is,  
6           it's a whole balancing. We  
7           have to look at water supply  
8           not only for New York City, but  
9           the millions of people south of  
10          the New York City reservoirs  
11          that rely on water coming from  
12          the Delaware Basin including  
13          the City of Philadelphia.

14                        We have to look at in-  
15          stream flows, and when we get  
16          down into drought conditions  
17          not only could water supply  
18          suffer, but conservation  
19          numbers go down, the levels in  
20          the river go down and it really  
21          affects ecology.

22                        So it's a whole  
23          balancing, so when we have this  
24          model in place, we'll really be  
25          able to tell what's best for

1 the overall system.

2 With that I would like  
3 to end my comments and ask  
4 Council, Ken Warren, during his  
5 presentation if we could give a  
6 little more explanation on  
7 DRBC's authorities and how DRBC  
8 is working with the Parties to  
9 the Supreme Court Decree.

10 I think it's a little  
11 confusing when you have these  
12 two different entities and you  
13 really work in sort of in a  
14 different mode.

15 That's the end of my  
16 report. Thank you.

17 CHAIR:

18 Thank you, Carol. Ken,  
19 can you give us your General  
20 Counsel's report and then also  
21 a little of your explication of  
22 the relative roles of the DRBC  
23 and the Decree Parties with  
24 reservoir operations like FFMP?

25 MR. WARREN:

1                   Sure. I'd be happy to.  
2                   Just for the record I wanted to  
3                   note that I have recused myself  
4                   from any participation in  
5                   docket number eight, so staff  
6                   is aware of that.

7                   I wanted to talk a  
8                   little bit to the audience  
9                   today who is going to hear a  
10                  number of terms that may sound  
11                  confusing because we're really  
12                  operating under a mosaic of  
13                  legal authorities.

14                  You will hear about the  
15                  Delaware River Basin Commission  
16                  and in that context hear things  
17                  like, dockets, regulations, and  
18                  comprehensive plans.

19                  You'll hear about the  
20                  Decree Parties and a Supreme  
21                  Court Decree and agreements  
22                  among the Decree Parties.

23                  And I think it's  
24                  difficult for a member of the  
25                  community without legal



1 training to really understand  
2 how those various pieces of the  
3 puzzle fit together, so without  
4 trying to take too much of your  
5 time, I wanted to try to  
6 clarify some basic concepts so  
7 the presentations that you'll  
8 hear from others later this  
9 afternoon might be more  
10 understandable.

11 In 1954 the United  
12 States Supreme Court issued a  
13 Decree in the case of New  
14 Jersey v. New York. That case  
15 involved competing claims by  
16 the State of New Jersey, New  
17 York State, New York City, the  
18 Commonwealth of Pennsylvania  
19 and the State of Delaware, to  
20 the waters of the Delaware  
21 River.

22 You probably are  
23 familiar with the fact that  
24 this Decree established the  
25 right of New York City to

1 divert 800 million gallons per  
2 day from the three Delaware  
3 River Basin reservoirs that to  
4 date New York City has built  
5 for water supply purposes.

6 The '54 Decree also gave  
7 rights to the lower basin  
8 states. Those rights are to  
9 what's called compensating  
10 releases from the New York City  
11 Delaware River Basin  
12 reservoirs. Those releases  
13 must be sufficient to maintain  
14 a minimum flow of 1750 cfs at  
15 the USGS gauging station in  
16 Montague, New Jersey. So the  
17 Supreme Court said that New  
18 York City had to release a  
19 sufficient quantity of water  
20 that this flow, 1750 cubic feet  
21 per second is maintained at the  
22 gauge in Montague.

23 So the New York City  
24 reservoirs are not only  
25 providing water supply for New

1 York City, they are maintaining  
2 flows that are going to be used  
3 for water supply and other  
4 purposes by the lower basin  
5 states.

6 The 1954 Decree also  
7 required New York City to  
8 release something called an  
9 excess release quantity.  
10 Without getting into the  
11 technical details of that, I'll  
12 say it can't exceed 70 billion  
13 gallons during the seasonal  
14 period of June 15th to March  
15 15th and varies somewhat, based  
16 upon New York City's water  
17 needs.

18 New York City has no  
19 obligation under the 1954  
20 Decree to release any water  
21 beyond that required to meet  
22 the Montague flow target and to  
23 satisfy this ERQ.

24 Also the 1954 Decree  
25 made no provision for spill

1 mitigation releases, no  
2 provision for conservation  
3 releases, no provision for  
4 ecological releases. You have  
5 to remember this is a 1954  
6 Decree and water supply and  
7 water flows were what was on  
8 the mind of the Parties in the  
9 Supreme Court in 1954.

10 Well, times have  
11 changed. In 1961 Congress and  
12 the states established the  
13 Delaware River Basin Commission  
14 to manage the water resources  
15 of the basin. The members of  
16 the Commission are the four  
17 basin states and the federal  
18 government.

19 There are two  
20 differences between the  
21 membership of the Commission  
22 and the membership of the  
23 Decree Parties. New York City  
24 is a Decree Party. They do not  
25 sit on the Commission. The

1 federal government is a  
2 Commission member, but not a  
3 Decree Party.

4 The Compact gives the  
5 Commission the power to  
6 allocate the waters of the  
7 basin, so one would think that  
8 the Commission could take the  
9 Supreme Court Decree, figure  
10 out how it could be improved  
11 and change it. To some degree  
12 that is true, but it is subject  
13 to an important limitation.  
14 The Compact, the statute that  
15 established the Commission,  
16 which is what we call the  
17 Compact, prohibits the  
18 Commission from adversely  
19 affecting the releases or  
20 diversions provided in the 1954  
21 Decree without the unanimous  
22 consent of the Decree Parties.  
23 So every Decree Party,  
24 including those who are on the  
25 Commission, including New York

1 City must unanimously consent  
2 to any changes to the flows set  
3 forth, the reservoir operations  
4 set forth in the 1954 Decree.

5 The Commission provides  
6 a forum for which the Decree  
7 Parties may work cooperatively  
8 to develop what's needed, an  
9 effective spill mitigation  
10 program and an effective  
11 conservation release program.  
12 So the Commission, which is one  
13 entity, and the Decree Parties,  
14 which are separate entities,  
15 who signed the Decree, work  
16 together in a cooperative  
17 fashion as best we can to  
18 improve upon the terms of the  
19 Supreme Court Decree.

20 Now, as Carol mentioned,  
21 the Commission is an  
22 administrative agency and takes  
23 regulatory actions only after  
24 giving public notice and  
25 receiving public comment.

1           That's very important. The  
2           Commission does not meet in  
3           secret. It does not take  
4           actions in secret, and whenever  
5           it takes action of the sort  
6           that might affect flows, will  
7           take those actions only after  
8           giving public notice and taking  
9           written comment.

10                         The Commission also  
11           maintains a comprehensive plan  
12           for the development and use of  
13           the water resources of the  
14           basin. This comprehensive  
15           plan, which we are required to  
16           have under the Compact,  
17           consists of the regulations  
18           that we promulgate, and  
19           approved projects that the  
20           Commission endorses.

21                         The Commission also  
22           issues dockets. What are those  
23           dockets? Those dockets largely  
24           pertain to those projects that  
25           might be implemented by public

1           entities or private entities  
2           that have a substantial effect  
3           on the water resources of the  
4           basin.

5                         The Commission will  
6           conduct a hearing with respect  
7           to those projects and then make  
8           a determination as to whether  
9           the project conflicts or does  
10          not conflict with the  
11          Commission's comprehensive  
12          plan.

13                        Remember, the  
14          comprehensive plan is the  
15          Commission's regulations and  
16          the other projects that the  
17          Commission has already  
18          approved. So the Commission  
19          requirements are set forth in a  
20          combination of regulations,  
21          which are issued only after  
22          notice and comment rulemaking,  
23          and the comprehensive plan,  
24          which includes the regulations  
25          and the projects. And then the



1           dockets which are like permits.  
2           They are adjudications where  
3           the Commission decides that a  
4           project can go forward if it  
5           does not conflict with the  
6           conditions of the comprehensive  
7           plan.

8                         So we have all of these  
9           different concepts that come  
10          together to put together a  
11          puzzle of how the Commission  
12          acts and the Decree Parties  
13          act.

14                        Now, in 1983 the Decree  
15          Parties negotiated a Good Faith  
16          Agreement that, among other  
17          things, limited releases from  
18          the New York City reservoirs  
19          during drought warning and  
20          drought emergency according to  
21          the amount of water stored.  
22          And also in 1983 the Good Faith  
23          Agreement contained a limited  
24          reservoir releases program that  
25          would help maintain the

1 fisheries that had developed in  
2 the tailwaters of the  
3 reservoirs.

4 Now, the Decree Parties  
5 who reached this agreement  
6 choose not to proceed solely by  
7 seeking Supreme Court approval  
8 of their agreement, rather the  
9 Decree Parties asked the  
10 Commission to undertake a  
11 public process to incorporate  
12 their agreement in the  
13 Commission's regulations, in  
14 its dockets, in its  
15 comprehensive plan.

16 The Commission, as  
17 you've noticed, went through  
18 public hearings and approved  
19 the changes with the unanimous  
20 consent of the Decree Parties.  
21 They are reflected in a docket,  
22 which we on the Commission  
23 known as Docket D-77-20-CD  
24 Revision 1. So you'll hear in  
25 some of the discussions today

1 Rev. 1 or Revision 1. We're  
2 talking about the docket that  
3 implements the 1983 Good Faith  
4 Agreement of the Parties.

5 And the Commission also  
6 passed regulations, which are  
7 now in the Commission's Water  
8 Code, implementing the Good  
9 Faith Agreement.

10 So we have a docket and  
11 we have regulations that alter  
12 the Supreme Court Decree. Well,  
13 how did we do that? We did it  
14 because Congress and the states  
15 gave the Commission the  
16 authority to change the  
17 provisions of the Supreme Court  
18 Decree with the unanimous  
19 consent of the parties to the  
20 Decree, so that's how it came  
21 together in 1983.

22 And we have Rev. 1,  
23 which has some limited  
24 conservation releases in it.

25 Rev. 1 is a permanent

1 docket. What we mean by that is  
2 if succeeding dockets are  
3 temporary and they expire we  
4 automatically revert to the  
5 Good Faith Agreement embodied  
6 in Rev. 1 and in the Water  
7 Code.

8 That is the only docket  
9 relating to flow management to  
10 date that is a permanent  
11 docket. Every other docket has  
12 an expiration date and Rev. 7,  
13 Revision 7, to this docket and  
14 Rev. 9, Revision 9 to this  
15 docket, contains spill  
16 mitigation, they expire at the  
17 end of this month. Which means  
18 that if nothing else happened  
19 we would revert to Rev. 1.

20 Now the Decree Parties,  
21 however, have entered into the  
22 Flexible Flow Management  
23 Program. They have reached a  
24 private agreement of the Decree  
25 Parties. They have asked the

1 Commission to publish  
2 regulations to implement the  
3 program.

4 The Commission will  
5 publish proposed regulations.  
6 They will be put out with ample  
7 time for everyone in the basin  
8 community to comment on those  
9 proposed regulations. As Carol  
10 said we will do a comment  
11 response document. We will  
12 have public notice meetings.  
13 We will have a hearing, at  
14 least one hearing, where  
15 everyone will have an  
16 opportunity to testify, and  
17 based upon that, the  
18 Commissioners will decide what  
19 the regulations should be.

20 They may be same as the  
21 proposed regulations, but more  
22 likely than not there will be  
23 some changes based upon public  
24 comment.

25 Now, the Commissioners,

1           the five members of the  
2           Commission, have the authority  
3           to pass or promulgate those  
4           regulations, but as I said  
5           before, the Compact says that  
6           the flows that are set forth in  
7           the Supreme Court Decree can  
8           only be altered with the  
9           unanimous consent of the Decree  
10          Parties.

11                        So every Decree Party,  
12           including New York City, will  
13           have to consent to any portion  
14           of those regulations that  
15           changes their rights under the  
16           Supreme Court Decree.

17                        The Commission does not  
18           have to issue regulations to  
19           approve the FFMP. That will  
20           --- whether it does or doesn't  
21           do that will be a result of the  
22           public process. But the  
23           Commission can't implement its  
24           own view of what the release  
25           program should be, or what the

1 spill mitigation program should  
2 be, without the consent of New  
3 York City and the other Decree  
4 Parties.

5 Now, the Commission, as  
6 you will see, tries to proceed  
7 in a cooperative fashion. What  
8 we mean by that is that even  
9 though the Decree Parties and  
10 the Commission are separate  
11 entities, we consult with each  
12 other. We will consult with  
13 other members of the basin  
14 community. We consult with the  
15 River Master. We take in the  
16 comments of advisory  
17 committees, stakeholder groups,  
18 et cetera, to reach the best  
19 possible result.

20 And it is my hope and my  
21 request to the basin community  
22 that you each fully participate  
23 in the administrative process  
24 that is available to you.

25 Provide your comments,

1 provide your scientific support  
2 for your comments, because it  
3 is only as a result of that  
4 full public participation  
5 process that the Commission  
6 will be able to enact the best  
7 possible regulations, balancing  
8 all of the competing needs for  
9 the water from the New York  
10 City reservoirs and from the  
11 rest of the basin.

12 So I hope that I have to  
13 some degree clarified some of  
14 the terms that you will hear.  
15 Feel free to ask me questions.  
16 I'll be available after the  
17 meeting to respond privately if  
18 you want more details on the  
19 law, but I wanted to just put  
20 this mosaic out and give you  
21 some guidance as to how to walk  
22 through it.

23 CHAIR:

24 Thank you very much, Mr.  
25 Council. I've been dealing



1 with this and I was at the  
2 table at this Good Faith  
3 Agreement, but I find this is  
4 very, very helpful.

5 It clarifies my own  
6 thinking as we move forward to  
7 make sure we get it right and  
8 we do everything we should do  
9 in order to satisfy all of our  
10 legal obligations and all of  
11 our public policy obligations  
12 as well.

13 So we will absolutely  
14 have a full public process on  
15 this and this is another step  
16 in the adaptive management we  
17 hope we'll have moving our  
18 ability to use water resources  
19 to everybody's benefit forward,  
20 bit by bit, as we learn more,  
21 as we have more tools at our  
22 disposal.

23 Thank you very much.  
24 Now I can do my project. Can  
25 we have folks who are in the

1           anteroom who are interested in  
2           the public meeting come in  
3           please?

4 PUBLIC HEARING

5                           CHAIR:

6                           Next on the agenda is a  
7           public hearing with respect to  
8           the resolution concerning an  
9           operating program for the New  
10          York City Delaware Basin  
11          reservoirs, pending completion  
12          of rulemaking on Water Code  
13          amendments to implement a  
14          Flexible Flow Management  
15          Program.

16                          We'll call on Bill  
17          Muszynski again.

18                          MR. MUSZYNSKI:

19                          Actually, the River  
20          Master's Office was going to  
21          take the lead on this.

22                          CHAIR:

23                          Oh, yes. That's right.  
24          Steve.

25                          MR. BLANCHARD:

1                   This morning we gave a  
2                   real brief ten-minute  
3                   presentation on the very big  
4                   picture of the Flexible Flow  
5                   Management Program, talked  
6                   about its current status. I'll  
7                   only repeat a little bit of  
8                   that this afternoon.

9                   I'll introduce the topic  
10                  and go through some of the  
11                  beginning slides that are more  
12                  general in nature, and then  
13                  I'll have Gary Paulachok, the  
14                  Deputy River Master, come up  
15                  and also Dr. Muralidhar from  
16                  the New York State come up and  
17                  go through some of the more  
18                  detailed slides about the  
19                  aspects of the program.

20                  Next slide. So Ken  
21                  Warren did a great job of  
22                  summarizing the Decree versus  
23                  the Compact and the history of  
24                  how revisions come about.

25                  Back in 1954 there was a

1 Supreme Court Decree allocating  
2 the waters of the Delaware.  
3 The primary focus at that time,  
4 as Ken mentioned, was water  
5 supply, so it was very rigid in  
6 allowing New York City to take  
7 800 million gallons per day for  
8 its water use needs, and  
9 maintained flow in the river of  
10 1750 cfs for down-basin states  
11 and allowed New Jersey a  
12 hundred million per day  
13 diversion.

14 That was very rigid and  
15 so as other needs and issues  
16 have arisen over time regarding  
17 the use of the waters of the  
18 Delaware, as you can see here  
19 the history there's been the  
20 Good Faith Agreement that Ken  
21 went over, and then several  
22 revisions up through Rev. 9.  
23 And Rev. 9 and Rev. 7, as Ken  
24 mentioned are scheduled to  
25 expire in just a few days at

1 the end of this month.

2 Next slide. So the  
3 objectives of the Flexible Flow  
4 Management Program --- and let  
5 me just go back and say that  
6 the Decree Parties and  
7 principals put together a work  
8 group that I believe it's been  
9 more than three years they've  
10 been working out the details of  
11 this program, trying to come up  
12 with a program that is flexible  
13 and not as rigid as the Decree  
14 in addressing some of the water  
15 issues in the basin.

16 So that was one of the  
17 primary objectives of this  
18 Flexible Flow Management  
19 Program was to incorporate  
20 adaptive management principles,  
21 just like is being done in  
22 other parts of the country,  
23 whether it's the Grand Canyon  
24 of the Everglades, as issues  
25 arise related to water use in a

1 basin, being able to adapt the  
2 management of those waters  
3 accordingly.

4 Secondly, continue to  
5 manage reservoir diversions and  
6 releases, also maintain the  
7 source of water as being  
8 sustainable, not overusing it,  
9 maintaining safe supplies to  
10 both New York City and New  
11 Jersey and their diversions,  
12 addressing the needs of flood  
13 mitigation that have arisen.  
14 It's especially been brought to  
15 our attention most recently.

16 Addressing the flow and  
17 temperature for tailwater  
18 fisheries as was mentioned the  
19 reservoirs created a cold water  
20 fishery that's now renowned  
21 throughout the United States,  
22 and so that's an important  
23 aspect of this program.

24 And also to develop more  
25 natural flow regimes instead of

1           just ramping up and down to  
2           meet the provisions of the  
3           Decree, doing it in a more  
4           natural way. And then consider  
5           withdrawal and non-withdrawal  
6           uses in the main stem, estuary  
7           and bay, including acquiring  
8           resource needs and salinity  
9           repulsion.

10                         So those are the  
11           objectives of the FFMP and ---.

12                         CHAIR:

13                         I have to interrupt.  
14           Sorry. We keep leaving this  
15           out, because there is a  
16           diversion, which is safe  
17           supplies, meaning drinking  
18           water supplies to the New York  
19           City and New Jersey customers  
20           and I know what you mean as  
21           diversion of water supply, but  
22           the flow that's sent to the  
23           Montague target and Trenton  
24           target is for supply for  
25           Pennsylvania customers, so we

1 don't want to be forgotten in  
2 that mix.

3 MR. BLANCHARD:

4 Correct. Thank you.

5 CHAIR:

6 While I've got that hat  
7 on, I have to raise that fairly  
8 often.

9 MR. BLANCHARD:

10 So those are the main  
11 components and sort of the  
12 boundaries that the work group  
13 came together with in trying to  
14 formulate this FFMP. Next  
15 slide. So status and this is a  
16 repeat from this morning and  
17 Ken Warren went through this in  
18 fairly good detail about how  
19 this works.

20 The Decree Parties, have  
21 reached agreement on  
22 implementing the FFMP, so the  
23 document will be signed on or  
24 before October 1st, and put  
25 into place so the River Master



1 office will now start  
2 administering the FFMP on  
3 October 1st.

4 The River Master will  
5 post the document on our web  
6 page. Hopefully it should be  
7 up by tomorrow so that you can  
8 have access to it because  
9 today's presentation, again,  
10 will be not going through all  
11 the detail as in the 25 to 30  
12 page document.

13 And then as Ken  
14 mentioned, DRBC will begin to  
15 go through the rulemaking  
16 process, converting the FFMP  
17 into Water Code, and going  
18 through the public comment  
19 period.

20 DR. OTTO:

21 Question. On the second  
22 item I just want to clarify  
23 that the document will be  
24 signed by the parties to the  
25 Decree, not by the

1           Commissioners.

2                     MR. BLANCHARD:

3                     Correct. The document  
4 will be signed by the Decree  
5 Parties, not the Commissioners.

6                     Next slide. So I'll  
7 begin by highlighting a few of  
8 the major elements and then  
9 I'll have Gary and Dr.  
10 Muralidhar come up.

11                    Diversions maintains New  
12 York City's 800 million gallons  
13 maximum per day diversion and  
14 New Jersey's 100 million per  
15 day monthly average diversion.

16                    The flow objectives for  
17 down basin will also be  
18 maintained, but somewhat  
19 modified. Montague will be  
20 maintained at 1750 cfs for the  
21 period September 16th through  
22 June 14th, and then during the  
23 summer months, June 15th  
24 through September 15th it'll be  
25 up to 1850 cfs.

1                   The Trenton diversion  
2                   (sic) is specified in the Water  
3                   Code and there's a table in  
4                   there that I did not want to  
5                   put in the slide, but it ranges  
6                   from 2,500 to 3,000 cfs.

7                   As far as releases go  
8                   the conservation releases have  
9                   been moved into what's called  
10                  the Tailwater Habitat  
11                  Protection and Discharge  
12                  Mitigation Program, and they  
13                  will go through that in detail.

14                  The Excess Release  
15                  Quantity has been modified and  
16                  changed somewhat and retitled  
17                  to an Interim Excess Release  
18                  Quantity. It's specified in  
19                  the FFMP in detail, the formula  
20                  for how that is computed. But  
21                  for the period of June through  
22                  September it will be 15,468 cfs  
23                  days.

24                  And then the FFMP allows  
25                  for an IERQ extraordinary needs

1 bank, as it says. If  
2 extraordinary needs come up  
3 upon unanimous consent of the  
4 Decree Parties, they can modify  
5 the IERQ and maintain  
6 additional water.

7 Next slide. And this is  
8 the last one that I'll cover,  
9 and then I'll have them come up  
10 and go through some of the  
11 details on the tailwaters  
12 portion.

13 Drought management,  
14 again, the overriding principle  
15 that I stated this morning was  
16 we did not want to increase the  
17 number of drought days, and so  
18 the drought management curves  
19 have been revised, relating to  
20 the watch, the warning and  
21 emergency levels and that will  
22 be shown to you in a few  
23 minutes. It replaces the  
24 drought emergency salt front  
25 vernier with fixed seasonal

1 releases for the Montague flow  
2 objective.

3 It does increase the  
4 Jersey drought warning and  
5 emergency diversion a little  
6 bit from what they had in the  
7 past, and it allows up to 85  
8 million gallons per day.

9 So that's a real brief  
10 summary of some of the major  
11 components and then I'll have  
12 Gary and Dr. Muralidhar come up  
13 and go through some of the  
14 details of the tailwater  
15 portion or other aspects.

16 MR. PAULACHOK:

17 Okay. My name is Gary  
18 Paulachok. I'm the Deputy  
19 Delaware River Master, US  
20 Geological Survey in Milton,  
21 Pennsylvania.

22 DR. MURALIDHAR:

23 I'm Dr. Muralidhar. I  
24 advise Mark Klotz on technical  
25 matters.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. PAULACHOK:

Steve is fairly new to the program, as is Bill Muszynski. We've had some turnover recently, so the folks who have been involved in this for a number of years have been recruited to explain this in more detail to you, so I'll take a stab at that.

This is the Tailwaters Habitat Protection and Discharge Management Program.

There are two components here. One is to provide adequate flow of water in the tailwaters below the three New York City reservoirs to support a healthy ecosystem, aquatic ecosystem, including the fisheries, so that's the first part, the THP.

The DMP is the portion of this program that speaks to flood mitigation, and I want to

1           make it clear that the program  
2           speaks to flood mitigation. It  
3           doesn't speak to flood  
4           prevention. They're two  
5           different things.

6                         Under the previous  
7           program --- I guess the current  
8           program, Revisions 7 and 9, the  
9           comprehensive plan that Ken  
10          Warren referred to, those  
11          programs were given banks for  
12          specific purposes. Banks of  
13          water, a certain quantity of  
14          water allocated, say, for  
15          thermal protection. Dr.  
16          Muralidhar has at his  
17          discretion a bank of water of  
18          about 9,300 cfs days, and he  
19          can make discretionary releases  
20          when the forecast for water  
21          temperature that might be  
22          lethal to trout would be  
23          exceeded. He has liberty and  
24          discretion to release water  
25          from that bank.

1                   There's also a so-called  
2                   excess release quantity. A  
3                   portion of the excess release  
4                   quantity that Ken referred to  
5                   that was turned over by the  
6                   down basin states to the State  
7                   of New York to enhance the size  
8                   of this bank.

9                   And there's also a so-  
10                  called habitat protection bank.  
11                  the net effect of those three  
12                  banks is a quantity of water  
13                  available to New York State  
14                  under Revisions 7 and 9, about  
15                  20,000 cfs days water. And in  
16                  most years, according to the  
17                  modeling, that quantity of  
18                  water would be adequate 50  
19                  percent of the time. So in 50  
20                  percent of the years there's  
21                  enough water there to deal with  
22                  all the needs. In another 50  
23                  percent of the years there's  
24                  not enough water to deal with  
25                  the needs.



1                   Now, last year was a  
2                   good example where those banks  
3                   were being depleted before they  
4                   would be restored on June 1st.

5                   The Tailwaters Habitat  
6                   Protection and Discharge  
7                   Management Program also --- the  
8                   program that we've developed, a  
9                   number of agencies, including  
10                  the subcommittee on ecological  
11                  flows, including the work  
12                  group, the Decree Parties work  
13                  group, had assessed the  
14                  benefits of these programs  
15                  using two basis tools. The  
16                  OASIS model which is a model  
17                  that the DRBC contracted for,  
18                  and it enables us to look at  
19                  the effects of managing the  
20                  water supply in different  
21                  fashions.

22                  And the Decision Support  
23                  System, the DSS, is a model  
24                  that was developed jointly by  
25                  the SEF and the USGS biological

1           discipline for Fort Collins,  
2           Colorado, that basically would  
3           look at the proposed flows  
4           under the new program and give  
5           habitat figures, whether the  
6           habitat was improved, whether  
7           it was neutral or whether there  
8           was damage to the habitat under  
9           the proposed flow regimes.

10                        So it's a very complex  
11           model and it enables us to make  
12           decisions concerning these  
13           release programs, whether  
14           they're better than, equivalent  
15           with, or worse than programs  
16           that we have on the books or  
17           other programs that might be  
18           proposed.

19                        Steve mentioned release  
20           adjustments provide more  
21           natural flow regimen. We're  
22           doing away with banks and the  
23           idea here is that when the  
24           reservoirs are full or they  
25           have a high storage, releases

1 will be made at a higher rate,  
2 much the same as you would have  
3 in a natural system. And the  
4 spill mitigation component does  
5 incorporate the storage levels  
6 in the reservoirs and we've  
7 taken into account any snow  
8 pack that sits above the  
9 reservoirs in the watershed  
10 above the reservoirs.

11 So we feel that these  
12 two components address the  
13 major inputs, the major needs  
14 that have been expressed by the  
15 constituents, the various  
16 constituents in this. Next  
17 slide, please.

18 DR. MURALIDHAR:

19 This is the operational  
20 goal, and the lines below are  
21 familiar with what you have  
22 seen before. In the past we  
23 had a normal zone and then  
24 below in the yellow ink we have  
25 watch. And below that, in the

1 orange ink, we have warning,  
2 and below that in the red ink,  
3 we have emergency.

4 What we did now in  
5 response to the public  
6 comments, based upon the  
7 readings and also the comments  
8 we were getting based on  
9 various programs, we subdivided  
10 the normal zone into above  
11 normal and normal and below  
12 normal zones. Also this here  
13 what you see is different from  
14 what you saw in February at the  
15 public hearing.

16 This is much more  
17 enhanced than what you've seen  
18 before in the past because as  
19 you see now, it is 75 percent,  
20 the horizontal green line not  
21 the 80 percent and as it was  
22 only for two months previously.

23 So in response to public  
24 comment, we tried to improve  
25 the flow levels for the higher

1 regions for flood mitigation by  
2 increasing the line from two  
3 months to four months at 75  
4 percent.

5 And also we try to  
6 expand the line to afford them  
7 to move out by a couple more  
8 months. Whereas it started out  
9 from August 1st and now it goes  
10 all the way to February 15. Now  
11 this flood mitigation or spill  
12 mitigation it goes right  
13 through from June 15th through  
14 May 1st. So this is much more  
15 different than what we have  
16 seen earlier, and this was done  
17 in response to public comment.

18 This provide us to make  
19 large releases, which you will  
20 see in the tables that follow,  
21 and that will help us down the  
22 road to minimize to the maximum  
23 extent possible the flood  
24 mitigation, and releases in the  
25 L2 zone, which is normal is

1           much better. So this program  
2           is definitely better than the  
3           program we have in providing  
4           releases when the storage is  
5           above 75 percent.

6                        This is the release  
7           table, what you see. What we  
8           try to do is the region L1  
9           which we subdivided that into  
10          L1-a, b, c. Figure 2. This  
11          explains how we subdivided the  
12          normal zone into again, three  
13          different categories.

14                       When the usable storage  
15          is above 75 percent capacity of  
16          the region, what you saw  
17          before, then the spill  
18          mitigation program kicks in.  
19          So this curve is built  
20          differently for Cannonsville,  
21          Pepacton and Neversink  
22          Reservoirs. This is where the  
23          we have development of storage.

24                       We also included the  
25          snow pack with all the --- for

1 the actual storage of water.  
2 We also add the snow pack up  
3 above, the snow pack also into  
4 the equation. So if the  
5 storage is at the L1-a, the  
6 release is much higher than  
7 what it would be in L1-b and  
8 L1-c. All these are spill  
9 mitigation releases that  
10 provide higher releases,  
11 considerably higher than the  
12 conservation releases, as we'll  
13 see in the tables that will  
14 follow.

15 This is the table that  
16 we used, based upon 35 mgd  
17 available. The 35 mgd is based  
18 upon --- the 35 mgd is coming  
19 from New York City's diversion  
20 quantity, their 800 mgd. This  
21 is --- New York State has  
22 pledged to work with New York  
23 City to increase the capacity  
24 of Cannonsville and Pepacton  
25 withdrawing less than 13

1 million gallons. That's the 35  
2 million gallons drawn that are  
3 available.

4           Until we complete the  
5 agreement with the City and  
6 construction of additional  
7 storage, the City has agreed to  
8 give us 35 mgd from their  
9 diversion quantity. So we  
10 designed this table based upon  
11 35 mgd to be available for  
12 release purposes. As you see  
13 here, base releases in L1-a  
14 during the month of December  
15 through March 31 and April 1st  
16 to April 30th, the release is  
17 1500. That's considerably  
18 higher than what you see in the  
19 L2, which is only 80 cfs. 1500  
20 is the about the maximum that  
21 we can get from the reservoir  
22 when the reservoir is at  
23 maximum. But this is the  
24 maximum when looking at that  
25 region. So 1500 is about



1 maximum, and that is the  
2 allocation.

3 So during the month of  
4 May and June, there are the  
5 most spill mitigation releases  
6 because that's the date the  
7 city would like to make sure  
8 that these is approved by June  
9 1st so that the program kicks  
10 in.

11 This goes back if you  
12 recall the program that you  
13 saw. We had this spill  
14 mitigation program going from  
15 June 15th through May 1st. So  
16 again, June 16th to June 30th I  
17 have the 1500 coming from  
18 Cannonsville. So except for  
19 the short period from May 1st  
20 to June 15th, 1,500 cfs would  
21 be released from Cannonsville  
22 according to this program as  
23 long as we would meet the 75  
24 percent criteria of the old  
25 system.

1                   Likewise for Pepacton,  
2                   release more from --- increased  
3                   from 85 cfs to 700 cfs for the  
4                   amount that will be coming in  
5                   June. Neversink, the release  
6                   as an increase from 45 cfs to  
7                   190 cfs, so as you see, spill  
8                   mitigation releases are much  
9                   higher than conservation.

10                   These change as we come  
11                   down in storage, because it's  
12                   an adaptable program based upon  
13                   storage. If the storage comes  
14                   down effectively in the L1-b  
15                   region, then the releases are  
16                   brought down and the 1500 is  
17                   reduced. Then when the storage  
18                   comes down it's 110 in the  
19                   wintertime, and the spring time  
20                   it's about 225, summertime,  
21                   275, and then it's a little  
22                   less in the fall time.

23                   So compared to  
24                   conservation releases, L2 are  
25                   normal releases. And the L2 is

1 the release that will prevail  
2 most of the time during the  
3 operations. So during most of  
4 the time we'll be releasing the  
5 summertime constantly 260 cfs  
6 from Cannonsville, which is a  
7 significant increase from Rev.  
8 7, which only calls for  
9 maintaining a flow target of  
10 225 cfs. That translates to a  
11 release sometimes as little as  
12 45 to 300 cfs coming from  
13 Cannonsville Reservoir.

14 So compared to 100 cfs,  
15 this is a significant increase  
16 from 100 to 260 cfs. 260 cfs  
17 coming from Cannonsville will  
18 translate to about 300 plus at  
19 Neversink. And this would  
20 provide a form of protection  
21 much more than what we had in  
22 Rev. 7, with inadequate banks  
23 like this here. I already used  
24 about 14,000 cfs days and have  
25 only 6,000 cfs days left over.

1           And we still have another eight  
2           months to go.

3                       So the banks are  
4           inadequate, and the problem is  
5           we had inadequate time, and  
6           this provides predictability  
7           and assured releases.

8                       This release is for  
9           Cannonsville, coming down into  
10          drought watch, drought warning,  
11          and drought emergency. It's  
12          brought down, but still I want  
13          to draw it to your attention.  
14          In the summertime we have it  
15          even higher than 20 cfs coming  
16          from Cannonsville Reservoir.  
17          That's compared to, under Rev.  
18          7, that goes back to the basic  
19          operation release of 23 cfs  
20          that comes from the reservoir.  
21          Because 23 cfs as far as total  
22          release, plus any spill release  
23          that may be available from any  
24          bank that may be provided by  
25          the parties. It's from the ERQ

1           and others available.

2                       So this is significant  
3           increase that assures drought  
4           protection, increasing the  
5           releases during summertime,  
6           during the summertime drought  
7           emergency from 23 cfs to 110  
8           cfs at Cannonsville and at  
9           Pepacton, again, you can look  
10          at the L5 from Pepacton. In  
11          the summertime you get 80 cfs.

12               That is a significant daily  
13          increase again from what we had  
14          before, 18 cfs. That is 18  
15          compared to 80 now.

16                       At Neversink, it is 55  
17          cfs as compared to 15 that you  
18          had before. So before we were  
19          at the mercy of the bank and  
20          what was available, and this  
21          program provides adequate  
22          drought protection, much more  
23          than what we had from any  
24          program that we had until  
25          today.

1                                   MR. PAULACHOK:

2                                   I just want to make one  
3                                   additional comment. When you  
4                                   see the FFMP posted on the web  
5                                   sites or you have a copy in  
6                                   your hand in the caption under  
7                                   Table 3, you will see a series  
8                                   of tables all called Table 3,  
9                                   schedule of releases with X mgd  
10                                  available. The maximum  
11                                  available for this program is  
12                                  35 as this slide shows.

13                                 There are also tables  
14                                 for 20 mgd, 10 mgd and 0 mgd,  
15                                 and what that figure means is  
16                                 the amount of water that New  
17                                 York City will provide from its  
18                                 diversion, to New York State  
19                                 during a particular year  
20                                 beginning on or around June 1st  
21                                 for the operation of this  
22                                 program for the following year.  
23                                 So New York City every May will  
24                                 make a decision as to how much  
25                                 water from their diversion,

1           between 0 and 35 mgd they can  
2           allocate to New York State for  
3           use in this program.

4                        So that's how that that  
5           will work, and that will be  
6           done on a year-by-year basis.

7                        CHAIR:

8                        That's for the whole  
9           year?

10                      MR. PAULACHOK:

11                      That's for the year.  
12           I'm sorry. The 35 mgd is per  
13           day.

14                      UNIDENTIFIED SPEAKER:

15                      Which table you pick can  
16           change from year to year?

17                      MR. PAULACHOK:

18                      Yeah. Right.

19                      CHAIR:

20                      So this is the maximum?

21                      MR. PAULACHOK:

22                      This is the maximum.

23                      That's correct.

24                      MR. PLUMMER:

25                      Can you explain I guess

1 from April 30th ---?

2 COURT REPORTER:

3 Chairman Myers, do you  
4 want everyone to identify  
5 themselves or ---?

6 MR. PLUMMER:

7 I'm sorry. Dan Plummer,  
8 Friends of the Upper Delaware  
9 River. I'm just a little bit  
10 confused about the --- I'm just  
11 curious about the periods, I  
12 guess it's April 30th and then  
13 May 1st, May 31st through 'til  
14 June 30th, and then there's  
15 asterisks there in each of  
16 those boxes. So you're saying  
17 that during those periods those  
18 would be the constant flows  
19 released in the L1-c?

20 DR. MURALIDHAR:

21 What will happen at that  
22 time will --- even though the  
23 storage in the 11-a, there will  
24 be a release of only 225 cfs  
25 would be released. There is



1 no ---.

2 MR. PLUMMER:

3 It's not a maximum,  
4 that's what you'd be releasing.

5 Okay. And if the  
6 reservoirs are really full,  
7 say, you know, they're at a  
8 hundred percent capacity and  
9 there's a big storm coming, are  
10 you then still going to stick  
11 to that 225 release only?

12 DR. MURALIDHAR:

13 That will be hard,  
14 because we're trying to cover  
15 constants and if we don't have  
16 a storm, if a predicted storm  
17 does not come through. Storms  
18 we know ahead of time and we  
19 don't have enough lead time to  
20 make the releases available.  
21 So as such we continue to make  
22 225 releases. In the short  
23 time that's available, we  
24 wouldn't be able to ---.

25 MR. PLUMMER:

1 I know earlier in the  
2 presentation you guys did  
3 depend pretty strongly on what  
4 you're looking at down the road  
5 now as far as drought  
6 conditions go, so I thought if  
7 you were using those same  
8 references, NOAA, or whatever  
9 it is that you use, that you  
10 could possibly predict if  
11 there's a big storm coming.

12 DR. MURALIDHAR:

13 There have been many  
14 times that the storm is  
15 predicted --- they thought at  
16 one time I was sitting in the  
17 room and they talked about one  
18 coming That's in the morning.  
19 By the end of the day the storm  
20 went all the way down to Ohio,  
21 and that is when they got the  
22 rain.

23 MR. PLUMMER:

24 No, I agree. It just  
25 seems like it's a pretty big

1 risk to gamble.

2 CHAIR:

3 I'd like to stick to the  
4 question about this and comment  
5 on other related subjects.

6 MR. PLUMMER:

7 It is pretty much  
8 directed with the same  
9 question. It's just that's  
10 where it came from.

11 CHAIR:

12 Okay.

13 MR. PLUMMER:

14 Okay. Thanks.

15 MS. REICHART:

16 I just got to ask ---  
17 Elaine Reichart, Aquatic  
18 Conservation Unlimited. June  
19 1st comes and you decide, well,  
20 we're going to pick this  
21 particular chart with 35  
22 million gallons a day  
23 available. So this is the  
24 chart, these three reservoirs,  
25 is the chart for the year and

1           it does not ever go to 800 or,  
2           you know, 0 or whatever the  
3           second of category is 10,  
4           whatever you pick?

5                     DR. MURALIDHAR:

6                     Whichever chart is  
7           picked on June 1st that will be  
8           the chart for the rest of the  
9           year.

10                    MS. REICHART:

11                    Okay. So you're going  
12           to go over the 800 to 0; right?

13                    MR. PAULACHOK:

14                    No, the 35 comes out of  
15           the 800, which in effect  
16           reduces New York City's  
17           allowable diversion to 765.  
18           Okay. So this is a portion of  
19           their diversion.

20                    MS. REICHART:

21                    I understand that.

22                    MR. PAULACHOK:

23                    So you can ---.

24                    MS. REICHART:

25                    If you have a separate

1 chart for zero?

2 MR. PAULACHOK:

3 Correct.

4 MS. REICHART:

5 So you're going to  
6 review that?

7 MR. PAULACHOK:

8 Is that the next figure?  
9 Okay.

10 MS. REICHART:

11 Okay. That's all I want  
12 to know. We're going to get to  
13 see that.

14 MR. PAULACHOK:

15 Let's look at it,  
16 Bridget.

17 MR. HARKIN:

18 Lee Harkin, Friends of  
19 the Upper Delaware. I commend  
20 you by the way for L1-b, you're  
21 releasing it looks like 1,500  
22 at the lower level, which is 95  
23 percent. But then it drops  
24 into 275. That's a significant  
25 drop from 1,500. If you want a

1 really good graduated release  
2 why don't you come down in  
3 increments from there to the L2  
4 level or L3 level?

5 DR. MURALIDHAR:

6 Well, it would be. We  
7 won't drop all the way from  
8 1500 to 275 under this program.  
9 We have a protocol of releases.  
10 I understand what you're trying  
11 to tell, may from 1500 in steps  
12 to 275.

13 MR. HARKIN:

14 Yes.

15 DR. MURALIDHAR:

16 We do that actually in  
17 reality. I do it in steps of  
18 60 mgd every three hours. It's  
19 done over a period of time.

20 MR. HARKIN:

21 It'd be nice if you had  
22 it in writing. The other  
23 question I have is on the  
24 excess quantity releases you've  
25 related to earlier. You said

1 we got 15,000 cfs day?

2 MR. PAULACHOK:

3 In a 365-day year, yes.

4 MR. HARKIN:

5 Oh, 365?

6 MR. PAULACHOK:

7 More in the leap years.

8 MR. HARKIN:

9 Okay. If I'm right ---  
10 I'm wrong more than I'm right  
11 sometimes. 6/15 to 9/15, that  
12 would be released into the  
13 river?

14 MR. PAULACHOK:

15 6/15 to 9/15, some of  
16 that water would be used  
17 support the increase Montague  
18 flow target, which Steve  
19 Blanchard mentioned on June  
20 15th it'd go to 1,850.

21 MR. HARKIN:

22 100 cfs as part of the  
23 excess quantity

24 MR. PAULACHOK:

25 Yes, that's correct.

1 Supported by that IERQ.

2 MR. HARKIN:

3 So what I figured  
4 there's actually 160 cfs per  
5 day so the other 60 cfs would  
6 be released another time of the  
7 year?

8 MR. PAULACHOK:

9 It stays in reserved and  
10 then if it's needed to support  
11 the Trenton flow target, if  
12 Trenton drops below 3,000 it  
13 would be used for that purpose.  
14 And as the extraordinary needs  
15 bank, also was discussed some  
16 of that water is needed for,  
17 say, experimentation, flow  
18 needs for dwarf wedge mussels,  
19 for example, the Decree Parties  
20 upon unanimous agreement could  
21 authorize the release of some  
22 portion of that IERQ to support  
23 scientific studies.

24 MR. HARKIN:

25 Now, third and maybe



1 last, the excess quantity, does  
2 it have to come out of the New  
3 York City reservoirs or does it  
4 come out of Lake Wallenpaupack

5 MR. PAULACHOK:

6 No, it comes out of the  
7 New York City reservoirs, and  
8 it's defined in this agreement.

9 CHAIR:

10 Let me just ask one  
11 thing because we could all  
12 react to just having not seen  
13 this before and have a very  
14 good time for the next eight  
15 hours, but the people who have  
16 comments to make on other  
17 topics wouldn't get an  
18 opportunity. So please just  
19 ask the questions you need to  
20 sort of understand what's there  
21 so you can go home and reflect  
22 upon it and call people up and  
23 debate about it. But this is  
24 similar to but different than  
25 what you saw last time that

1           there's already been other  
2           comment on. So don't react in  
3           front of all this and think it  
4           through, please, because we  
5           don't have time to do that.  
6           Question back here.

7                     MS. SLOGAN:

8                     Mary Ann Slogan  
9                     (phonetic) from Lumberville. I  
10                    just have a question about the  
11                    interpretation of this. Just  
12                    using the 35 chart, has that  
13                    been modeled to look if this  
14                    had been done during our flood  
15                    periods over the last few years  
16                    what the impact would have  
17                    been?

18                    MR. PAULACHOK:

19                    I don't know whether it  
20                    has been.

21                    MS. SLOGAN:

22                    Is there a plan  
23                    to do that?

24                    MR. PAULACHOK:

25                    Maybe that the reservoir

1 modeling that was talked about  
2 earlier, the multi-agency  
3 effort by USGS, Corps of  
4 Engineers and Weather Service,  
5 they'll be looking at certain  
6 storm inputs into those  
7 reservoirs with certain  
8 stimulator reservoir voids to  
9 see how the reservoirs would  
10 have responded, so this could  
11 potentially be a part of that.  
12 I'm really not sure if their  
13 detailed study plan includes  
14 this or not.

15 CHAIR:

16 That's a good comment  
17 and suggestion you should  
18 submit. Because we'll be  
19 giving, in the coming two years  
20 our ideas, to do a lot of  
21 studies and gathering a lot of  
22 data and a lot of models to be  
23 run, and this is the time to  
24 suggest scenarios that would be  
25 helpful in answering these

1 questions.

2 At this time I'd like to  
3 move to public comment period,  
4 proposed rulemaking.

5 Do you have a comment or  
6 question? Who are you?

7 MR. MAYHORN:

8 Frank Mayhorn. On that  
9 piggyback and where they come  
10 out of Pepacton, or then we're  
11 coming back out of Neversink or  
12 stuff, and as you know we do go  
13 through that flood, not only do  
14 we have a larger volume of  
15 water. I mean, we actually  
16 have it much faster and I know  
17 that we have flow charts here,  
18 how much more water goes down  
19 in a flood. Some of the things  
20 --- and I'm sure you've thought  
21 about it, is like as that water  
22 comes down of course you want  
23 your lower reservoirs to  
24 release first. Your upper  
25 reservoirs release last, so

1           there's not a piggyback effect  
2           as it comes down.

3                         Is that going to be  
4           taken into consideration too,  
5           like to keep a flow chart here  
6           for our fisheries and  
7           everything? Like when you do  
8           that, when you think that in  
9           your mind each one of them have  
10          individual fisheries below each  
11          one of these reservoirs and  
12          where it comes back into the  
13          river, that's all gong to be  
14          coordinated, you know. You'll  
15          probably put your lower one out  
16          first, and then your middle  
17          one, and then your top one. Is  
18          that taken into consideration  
19          on these charts?

20                         MR. PAULACHOK:

21                         I believe on none of  
22          these charts, but on the  
23          reservoir modeling that we're  
24          talking about that's  
25          underlaying. They'd like to

1 look at the coordinated  
2 operations of various  
3 reservoirs throughout the basin  
4 for that specific purpose. So  
5 for example if you've got a  
6 flood wave coming out of the  
7 New York City reservoirs you  
8 don't want to release water  
9 from certain other reservoirs  
10 that will add to that flood  
11 wave. So you want to release  
12 them strategically --- make the  
13 releases strategically-timed  
14 releases so that they don't  
15 aggravate the existing  
16 situation. And my  
17 understanding is that's part of  
18 that study.

19 AUDIENCE MEMBER:

20 I wonder if the River  
21 Master is interested in how  
22 much water actually is drawn by  
23 New York City and taken down  
24 the tunnel? Is that part of  
25 your responsibilities? Do you

1 take that into consideration?

2 MR. PAULACHOK:

3 Yes, sir, it is. It's  
4 something we look at.

5 AUDIENCE MEMBER:

6 When you use the term  
7 800 million gallons a day, I'm  
8 sure you didn't mean that,  
9 because the 19-page audit made  
10 by the Comptroller in the city  
11 water systems, said that there  
12 was never in the last ten years  
13 more than 635 million gallons  
14 of water sent down that tunnel  
15 because the tunnel won't stand  
16 it. It will vibrate apart.  
17 They tried to put more than  
18 that down there once and  
19 according to the audit they  
20 were terrified about the  
21 tunnel. That tunnel has to be  
22 considered in all of your  
23 thinking, from now on because  
24 it's going to fall apart  
25 someday.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIR:

Do you have more?

MR. PAULACHOK:

We have a couple more.

I think we can skip past the next slide. It'll be on the web site.

The discharge management I talked about. It's the second portion of --- that's the DMP portion of the THPDMP component of this program. Salinity repulsion, this gets a little more complicated. All I can say to this is that the good faith objective of keeping the salt front at bay in the Delaware estuary is a component of this program. It's going to be handled in a slightly different way.

Federally listed endangered species like the dwarf wedge mussels, there's a provision in the agreement to



1 review impacts as new  
2 scientific information on the  
3 organism becomes available.  
4 And that's an aspect of the  
5 flexibility of the agreement,  
6 and the adaptive nature of the  
7 agreement.

8 Lake Wallenpaupack  
9 provisions considers spill  
10 mitigation program that would  
11 include PPL incorporating snow  
12 pack into their projections.  
13 There is a provision in this  
14 agreement to look at that.

15 Some other needs, the  
16 various other needs for the  
17 water or uses of the water  
18 haven't been adequately studied  
19 and addressed, so we left  
20 provisions in the agreement to  
21 consider future proposals as  
22 studies are completed and  
23 scientific data becomes  
24 available. One of those  
25 categories is recreation

1 boating.

2 Next slide, please. The  
3 same for these, estuary and bay  
4 ecological health, particularly  
5 the oysters in Delaware Bay are  
6 of interest to New Jersey and  
7 Delaware.

8 Warm water and migratory  
9 fishery below the cold water  
10 portions of the water, we don't  
11 know a lot about the water  
12 needs and the aquatic needs,  
13 ecological needs of those  
14 species. So there's a  
15 placeholder in the agreement.  
16 As that information becomes  
17 available, we will revisit and  
18 incorporate it as necessary.

19 And then to keep  
20 everything in check and to keep  
21 us the right track we've  
22 included sections on  
23 monitoring, reporting and  
24 periodic evaluations. These  
25 sections of the FFMP require

1 the Decree Parties to take a  
2 look annually at the FFMP, how  
3 it's operating, how it could be  
4 made better, how it could be  
5 improved and that'll be done on  
6 an annual basis.

7 Next slide.

8 Reassessment study, what we've  
9 done as a part of this program,  
10 as part of the FFMP, the  
11 reassessment study will look at  
12 basically the operations of  
13 major water supplies in the  
14 Delaware Basin. We'll look at  
15 the safe yield of the New York  
16 water supply system. We'll  
17 look at the Delaware Raritan  
18 canal and other major water  
19 operations to see if there are  
20 ways to better use, to optimize  
21 the uses of water in the basin.  
22 There's a provision --- I'm  
23 sorry.

24 MS. REICHART:

25 Elaine Reichart, ACU.

1 Is that assessment the complete  
2 New York City water supply  
3 system, the three reservoir  
4 systems?

5 MR. PAULACHOK:

6 No. This temporary  
7 reassessment study will be that  
8 portion of the city operation  
9 in the basin.

10 MS. REICHART:

11 Just the three  
12 reservoirs?

13 MR. PAULACHOK:

14 That's correct. There  
15 are provisions in the agreement  
16 for suspending or revising the  
17 agreement if unforeseen  
18 circumstances arise. The  
19 effective date for the first  
20 portion of this program will be  
21 for three years, so we're  
22 looking at final approval in  
23 2008, and that would run  
24 through sometime in 2011.

25 Thereafter the agreement

1 would renew automatically every  
2 five years unless one or more  
3 parties said we want to  
4 terminate or cancel the  
5 program, in which case those  
6 parties would have to give 180  
7 days' notice so the parties  
8 could come back to the table  
9 and renegotiate it, hopefully  
10 in good faith.

11 And rescissions, what  
12 that means is basically this  
13 program when it goes into  
14 effect will rescind a certain  
15 DRBC dockets. And that's it I  
16 think.

17 CHAIR:

18 Okay. Thank you. Are  
19 there any other questions for  
20 Gary from the Commissioners  
21 first? Public comment?

22 MR. PISCOLASKO:

23 Joe Piscalasko  
24 (phonetic). Could you explain  
25 the difference between

1 protection and mitigation?

2 MR. PAULACHOK:

3 Flood protection  
4 structures --- let me give an  
5 example. F.E. Walter Reservoir  
6 in Carbon County in  
7 Pennsylvania, the purpose of  
8 that structure is to capture  
9 flood waters and to release  
10 them, you know, at a controlled  
11 rate so the communities  
12 downstream are not devastated  
13 by flooding. The primary  
14 purpose of that reservoir is  
15 for flood protection.

16 These reservoirs, the  
17 three we're talking about here  
18 primarily, the New York City  
19 reservoir, as Steve Blanchard  
20 mentioned and as Ken Warren  
21 mentioned, these reservoirs  
22 when they were constructed  
23 their sole purpose was for  
24 water supply.

25 Over the years, you

1 know, they've evolved to  
2 incorporate other uses such as  
3 supporting a world-class trout  
4 fishery, ecological protection,  
5 boating, that sort of thing.  
6 But still their primary use is  
7 water supply. The difference  
8 being in a water supply  
9 reservoir your objective is to  
10 keep the water level, the  
11 storage as high as possible.  
12 So you have adequate storage if  
13 you get into dry period, you  
14 get into a drought, you still  
15 have water supply for the  
16 people who depend on that for  
17 drinking water. Versus a flood  
18 storage, flood protection  
19 structure where your objective  
20 is to keep the pool as low as  
21 possible so you have that large  
22 void space sitting there to  
23 accommodate the inflow that  
24 accompanies a flood.

25 So they're two totally

1           --- they're managed in two  
2           totally different ways and  
3           certainly they're classified in  
4           two different ways, because  
5           their purposes are completely,  
6           you know --- they're  
7           diametrically opposite.

8                       MR. TITTLE:

9                       Jeff Tittle, Sierra  
10           Club. On the previous slide  
11           you mentioned some kind of  
12           agreement on salinity on the  
13           salt water line?

14                      MR. PAULACHOK:

15                      Yes.

16                      MR. TITTLE:

17                      I was wondering what  
18           does that exactly mean? Are  
19           you going to try to maintain  
20           the line, down below, you know,  
21           Commodore Barry Bridge, or how  
22           is that going to work  
23           especially now that there are  
24           two scenarios, low flow  
25           conditions, drought of record



1           and if the Delaware deepening  
2           project goes forward, you'd  
3           need a larger volume of water  
4           to keep that line down.

5                     MR. PAULACHOK:

6                     Well, there's some  
7           modeling that's being  
8           undertaken by the Corps of  
9           Engineers that's looking at sea  
10          level rise, land use changes  
11          and also consumptive use, and  
12          the combined effects of those  
13          three impacts on salinity in  
14          the estuary. So we'll be  
15          looking at that as part of this  
16          reassessment study, but the  
17          objective of this program is to  
18          at least hold the salt front,  
19          the so-called salt front and  
20          not allow it to migrate further  
21          up river than it does under the  
22          current programs, thereby  
23          protecting the water supplies  
24          from filling up.

25                     MR. TITTLE:

1                   Lehigh University, too,  
2           has a program.

3                   MR. PAULACHOK:

4                   And all the wells.  
5           Right.

6                   MS. NOBLE:

7                   The Corps hasn't said  
8           they're are going to study the  
9           channel deepening have they?

10                  MR. PAULACHOK:

11                  The channel deepening is  
12           a component of that study.

13                  MS. NOBLE:

14                  So is it ten feet?

15                  MR. PAULACHOK:

16                  Bill, do you know the  
17           answer to that?

18                  UNIDENTIFIED SPEAKER:

19                  Five feet.

20                  MR. PAULACHOK:

21                  Five feet.

22                  MS. NOBLE:

23                  They're aiming for ten.

24                  UNIDENTIFIED SPEAKER:

25                  Well, it says five feet

1 is what they're looking at.

2 MS. NOBLE:

3 They want to get some  
4 more federal funds to do ten.

5 MR. SERIO:

6 Jim Serio, Delaware  
7 River Foundation. I just have  
8 a question. I wondered if a  
9 new FFMP has incorporated some  
10 portion of the snow pack figure  
11 into when the basin would get  
12 out of drought preparation and  
13 go back to normal?

14 DR. MURALIDHAR:

15 The snow pack, is  
16 considered in the actual  
17 storage. We also take the snow  
18 pack into consideration in  
19 calculating where the balance  
20 is. So snow pack is part of  
21 the program.

22 CHAIR:

23 The question is, would  
24 it relate to drought  
25 conditions?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DR. MURALIDHAR:

I was trying to get your response. Nothing has changed. The current program is based upon the Good Faith Agreement, and those provisions continue under the current program also.

MR. SERIO:

Thank you.

MR. BECKER:

My name is Jerry Becker, and perhaps you can assist me in understanding, as the chairman said at the very beginning that there was lack of pumping equipment from New York at the reservoirs, which I've also heard at several other meetings.

Are they looking at increasing the ability to pump water out if there's an emergency, if there's hurricane or other weather situations to get water out of there faster,

1 or you stated before taking  
2 water from a reservoir that's  
3 there to hold drinking water  
4 and pumping it into one that's  
5 supposedly going to hold water?

6 MR. PAULACHOK:

7 I'm not aware of any  
8 additional equipment the city  
9 plans to install or purchase at  
10 those reservoirs to evacuate  
11 them more quickly. They have  
12 release works that the water  
13 that goes into the river passes  
14 through. Dr. Muralidhar talked  
15 about with respect to table  
16 three the limitations, one  
17 exceeding, say, 1,500 at  
18 Cannonsville. You run into  
19 hydraulic problems.

20 MR. BECKER:

21 I understand and I'm  
22 glad to see that more water is  
23 going to be released for these  
24 other things, but I think the  
25 vast majority of people that

1           are here with concerns are  
2           talking about flood situations.

3                   MR. PAULACHOK:

4                   Right.

5                   MR. BECKER:

6                   Weather is --- we don't  
7           need scientific studies.  
8           Weather is unpredictable, and  
9           you can get a hurricane that  
10          can drop eight inches on you  
11          and there's not much you can  
12          do. The idea is to increase  
13          the ability to move water where  
14          and when you need it so that  
15          people down here don't end up  
16          getting flooded three times as  
17          many as us have.

18                   CHAIR:

19                   I think I can respond to  
20          that a little bit. It relates  
21          to the question that Lee was  
22          asking. They are going to look  
23          --- the reassessment what it  
24          will include, it would  
25          certainly include looking at

1 all of the infrastructure that  
2 relates to our options and our  
3 abilities and our constraints  
4 on using the reservoirs at all  
5 or more for flood mitigation.  
6 So while we're looking at that  
7 and that's one of the things  
8 that comes out of that then,  
9 you know, we would be perhaps  
10 asking New York if there was  
11 something else they could do,  
12 whether there was some way to  
13 change that. But we have to  
14 evaluate it further to do that.

15 MR. BECKER:

16 That would be my  
17 concern, drought and fishery  
18 --- I mean I'm a lover of  
19 wildlife and a bird watcher.  
20 You know, it's fine to have  
21 this waster, but in emergencies  
22 you have to be able to react.  
23 If you physically can't react,  
24 there's no discussion. You're  
25 going to be stuck in someone's

1 going to lose property, people  
2 will be injured or killed.

3 CHAIR:

4 Thank you.

5 MR. BILL:

6 Jeff Bill. I just  
7 wanted to follow up because if  
8 you drop the water too soon  
9 because most storms that hit  
10 this basin either come from the  
11 south, southwest heading  
12 northeast or it comes directly  
13 out of the west. If you drop  
14 the water soon what'll happen  
15 is you'll get a convergence  
16 where the water will be coming  
17 down from the reservoirs and  
18 then you'll get the heavy rain  
19 in the central part of the  
20 basement and it can actually  
21 make things worse. So we're  
22 going to be looking at those  
23 kind of scenario?

24 CHAIR:

25 That is why we cannot



1 propose at this time  
2 forecasting-based releases  
3 because it's too uncertain.  
4 The couple of times we were  
5 asked to consider that, that's  
6 exactly what happened. The  
7 storm a little bit --- it hung  
8 around in Philadelphia and if  
9 we had let water out on  
10 Wednesday, it would have hit  
11 Philadelphia right when rain  
12 did. So it was really do ---  
13 we're not talking about the  
14 storm water based forecasting.  
15 This is seasonal --- I'm trying  
16 to get as much voice as  
17 possible out of the system by  
18 whenever we're above normal  
19 basically starting to lower it  
20 when we know we're safe, but a  
21 step in that direction but it's  
22 not forecast-based.

23 MR. BECKER:

24 Yeah, but also even in  
25 the seasonal, you know, we have

1           seen seasons that look normal  
2           and then all of a sudden ---  
3           I'll use '99 as an example  
4           where it started out as a  
5           normal year and by late spring  
6           we're getting into a drought.  
7           If it weren't for Hurricane  
8           Floyd we probably would have  
9           ---.

10                           CHAIR:

11                           That's why a lot of  
12                           modeling has to be done. Yes?

13                           MR. HLIVKO:

14                           My name's Mack Hlivko.  
15                           I'm with the national office of  
16                           Trout Unlimited, and I just  
17                           wanted to say that on behalf of  
18                           Trout Unlimited and several  
19                           other conservation  
20                           organizations, we strongly  
21                           support the framework of the  
22                           FFMP, and using the different  
23                           models, using OASIS and the DSS  
24                           models we will be able to take  
25                           a position on it. Also to

1 share all that data with New  
2 York's agency and the  
3 Subcommittee on Ecological  
4 Flows.

5 There are a couple items  
6 that I just wanted to highlight  
7 that we are concerned about and  
8 we hope that the DRBC will take  
9 into consideration over the  
10 next year. One is increasing  
11 the flexibility of that L2  
12 season out of Cannonsville in  
13 the summer because of the high  
14 correlation with Cannonsville  
15 flows and the temperature in  
16 the upper main stem of the  
17 Delaware, from Bridgeville to  
18 Hancock. And our researcher  
19 indicates that this can be done  
20 with very little effect on the  
21 system.

22 Also we want to urge the  
23 DRBC and the River Master to  
24 treat the Montague minimum flow  
25 constraints as a weekly average

1 target. That would take into  
2 consideration both the  
3 hydropower generation of PPL,  
4 and the projected Montague  
5 needs over that week, to avoid  
6 the daily yo-yo effect that we  
7 have.

8 So anyway, thank you.

9 CHAIR:

10 Thank you. Let's get  
11 back to the questions so these  
12 gentlemen don't have to stand  
13 forever. Questions on their  
14 report.

15 MS. REICHART:

16 Yes, I have a couple of  
17 questions. Elaine Reichart,  
18 ACU. Just to clarify again.  
19 Are the 75 percent levels of  
20 --- where you have the normal  
21 line, okay, for your  
22 reservoirs, are they average  
23 between the reservoirs or are  
24 you doing it on a per reservoir  
25 basis?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

DR. MURALIDHAR:

Seventy-five (75)  
percent is for the three  
reservoirs in the system.

MS. REICHART:

So you can have one low  
and the other two much higher  
sometimes?

DR. MURALIDHAR:

The question that you're  
asking, after we look at the  
total system then we'll look at  
the individual reservoirs  
separately. That's the second  
figure that we were trying to  
show. So then we go back to  
the individual reservoirs. So  
once we meet the system  
criteria, then we come to the  
individual reservoirs. Here is  
the example for Cannonsville.  
If I'm looking at Cannonsville,  
I'm looking at Cannonsville on  
a particular day in question,  
then I look at the snow pack.

1           There is a need to look at the  
2           snow pack. Then that storage  
3           at Cannonsville would say how  
4           much release I'm taking from  
5           this reservoir.

6                     MS. REICHART:

7                     Next question. Which  
8           chart are you going with as of  
9           October 1st?

10                    DR. MURALIDHAR:

11                    Thirty-five (35).

12                    MS. REICHART:

13                    Thirty-five (35) mgd.

14           Okay. And this gets back to  
15           the ERQ, and it's kind of a  
16           stupid question, I think, but  
17           is spillage counted as part of  
18           the ERQ? When you have  
19           reservoir spilling ---?

20                    MR. PAULACHOK:

21                    No.

22                    MS. REICHART:

23                    It's not. Okay.

24                    MR. PAULACHOK:

25                    No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. REICHART:

And ---?

MR. PAULACHOK:

That's part of a  
controlled release.

MS. REICHART:

Okay. So it is  
controlled release. And --- I  
can't even remember. What  
about the tunnels? Does anyone  
know when we aqueduct tunnels,  
both the Catskill and the  
Delaware aqueduct tunnels are  
slated to be shut down for  
repairs? Has that factored  
into anything?

MR. KLOTZ:

I know we've had  
discussions with New York City.  
We don't have any clear  
schedule yet, but any of the  
work on the tunnels has not  
been directly factored into the  
program as we developed for.

AUDIENCE MEMBER:

1 I can't hear you. Can  
2 you speak a little louder,  
3 please?

4 MR. KLOTZ:

5 We've had some  
6 discussions with New York City  
7 on that. I do not have any  
8 clear schedules for any of that  
9 work, but I made it clear that  
10 we have not factored any of  
11 those possibilities or  
12 potentials into the program  
13 that we have developed.

14 MS. REICHART:

15 Okay. And the last  
16 question. Do you have any ---  
17 are the regulations for  
18 drought, okay, the restrictions  
19 that are put in place once the  
20 drought lines hit, do they stay  
21 in place until normal is  
22 reached, or is there a  
23 relaxation of those regulations  
24 before the normal line is hit?

25 DR. MURALIDHAR:



1                   That does not change.  
2           What we have in place remains  
3           the same. Once we go into  
4           drought condition we have to go  
5           up to normal stay there for  
6           such a number of days before we  
7           come back out.

8                   MS. REICHART:

9                   Okay. Thank you.

10                  MR. GROUSON:

11                  Pete Grouson (phonetic).  
12           I would say that we also  
13           support the gradual release,  
14           but we do have some major  
15           concerns. We did some modeling  
16           this summer and we noticed that  
17           there were at least three or  
18           possibly four times where the  
19           temperatures exceed 75 degrees.  
20           And at that time the flow was  
21           somewhere between 300 and 450  
22           cfs. With the FFMP, in the  
23           ideal L2 situation, which we're  
24           having most of the time. Do  
25           you have any consideration for

1           that, but that's a potential  
2           for the main stem fishery to  
3           get to 80 degrees.

4                       The second issue is, I  
5           believe that PP&L's licenses  
6           have been renewed and they've  
7           been allocated more water from  
8           Lackawaxen. They're getting  
9           somewhere around 2.1; is that  
10          correct? And the amount of  
11          water is going to be greater in  
12          2009? Are we still going to  
13          have that water impact, the  
14          water in Cannonsville or  
15          whatever we should normally  
16          have, is really the only thing  
17          that saves the fishery. Or  
18          will that be taken away from  
19          the fishery as well if PP&L is  
20          allowed more water?

21                       DR. MURALIDHAR:

22                       They remain irrespective  
23                       of PP&L's moves. These are the  
24                       constant releases.

25                       MR. GROUSON:

1                   What you're saying is  
2                   we'll lose that?

3                   MR. PAULACHOK:

4                   Let me address the first  
5                   part of your question, the  
6                   first question first. These  
7                   releases that are in the tables  
8                   don't take into account  
9                   directed releases by the  
10                  Delaware River Master. So for  
11                  example, if these releases were  
12                  occurring for this season, for  
13                  September 26th and the River  
14                  Master's forecast was that  
15                  there was going to be a  
16                  deficiency at Montague of say  
17                  1,000 cfs. There would be  
18                  1,000 cfs in addition to what's  
19                  in this table. Okay?

20                  Just for example, this  
21                  summer the River Master's  
22                  office started direct releases  
23                  in May. We haven't missed a  
24                  day since May. It's September  
25                  and we don't see any end in

1           sight. Yesterday's directed  
2           release out of three reservoirs  
3           combined was 1,200 cfs, so in a  
4           lot of cases those directed  
5           releases take care of your  
6           concern.

7                           MR. GROUSON:

8                           I understand that. And  
9                           under FFMP, we could  
10                          potentially have much higher  
11                          temperatures than normal in the  
12                          water if we're still under L2.  
13                          Potentially because there were  
14                          times even under Rev. 7, you be  
15                          at 225, and in that case I mean  
16                          is there any provision, any  
17                          thought as to what would happen  
18                          if that type of situation  
19                          occurred? It's called flexible  
20                          flow, and if I understand the  
21                          nature of this, it's supposed  
22                          to be flexible.

23                           MR. KLOTZ:

24                          Let me try to answer the  
25                          question regarding temperature.

1           Going back to the whole basis  
2           of this thing, it's a balance.  
3           We realize there is not enough  
4           water there to meet all the  
5           needs, so there's not enough  
6           water for our use to meet that  
7           75-degree temperature  
8           throughout the main stem at all  
9           times.

10                         We've had a number of  
11           discussions with our own  
12           fishery staff, other fisheries'  
13           experts outside of our agency  
14           to see what was the most  
15           appropriate way to try to deal  
16           with this. The information and  
17           feedback we got was that the  
18           rapid rate of temperature  
19           change was more detrimental  
20           than trying to maintain a more  
21           gradual change, which would  
22           allow the habitat to move into  
23           refuge areas.

24                         So that while we may not  
25           at all times meet the same

1 temperature we're not going to  
2 have the rapid rate of change  
3 that we currently see.

4 MR. GROUSON:

5 Keeping the temperature  
6 at 75 degrees, we understand  
7 that. We certainly understand  
8 that, but extremely high  
9 temperatures, if they were to  
10 occur, do we go back to the  
11 planning board here?

12 MR. KLOTZ:

13 And that's part of this  
14 whole program, too, that we've  
15 talked about. There are  
16 provisions for us to re-  
17 evaluate this potentially each  
18 year based on data,  
19 information, studies and  
20 reports that are completed. If  
21 we go through this exercise and  
22 we see that our theories were  
23 not correct, there are  
24 opportunities for us to make  
25 changes. And if we see some

1 real problems with that we  
2 would entertain those  
3 discussions.

4 MR. PAULACHOK:

5 Before you sit down,  
6 sir, I'd like to just address  
7 your question about Lake  
8 Wallenpaupack. I'm not aware  
9 of any proposal or agreements  
10 for Lake Wallenpaupack to  
11 release additional water in  
12 2009. What they're doing now  
13 as part of their license  
14 renewal --- and their license  
15 as recently renewed by the FERC  
16 is that there's a requirement  
17 for PP&L, and I don't remember  
18 the exact details. It may be  
19 one day a month; it might be  
20 two days a month, to make an  
21 additional release for the  
22 fisheries and for recreation,  
23 and they do that.

24 But it's --- you know,  
25 it's very short duration of

1 release over a six- or eight-  
2 hour period, and it's only  
3 during certain months. And  
4 then once it's over it's over  
5 and they're back to normal  
6 operations until the next  
7 special release.

8 CHAIR:

9 Let me ask if there are  
10 questions that we really need  
11 the slides up there for because  
12 a lot of people are segueing  
13 to general public comment and  
14 we don't have to be in the dark  
15 if we don't need the slides. Or  
16 have people standing there by  
17 the slide. If you need to  
18 point to the slide then keep  
19 your hands up. Sir?

20 MR. SMITH:

21 Ed Smith, Assemblyman  
22 Doherty's office. You were  
23 talking about the modeling of  
24 the tunnels and if I understand  
25 that, that's no significant



1 draw down tool. Would that be  
2 an extraordinary circumstance  
3 in which case then, when ---  
4 because our constituents are  
5 very concerned that there's no  
6 void. So at those times, you  
7 know, using the chart we're  
8 going to be at a hundred  
9 percent, if the tunnels are  
10 going to be down and that's a  
11 significant draw up mechanism,  
12 can there be something  
13 incorporated to provide some  
14 type of safety relief interim-  
15 wise while that takes place?  
16 Because you did mention that  
17 that's not included and I would  
18 be curious as to whether or not  
19 that could be addressed. I  
20 know that would make a lot of  
21 people more comfortable  
22 downstream.

23 MR. KLOTZ:

24 I don't think we've had  
25 any detailed discussions on

1           that at this point. It's a  
2           good comment. It's something  
3           that when we get an actual  
4           schedule on some repair work we  
5           should have some further  
6           discussions.

7                           CHAIR:

8                           I would just clarify  
9                           that I don't think we said that  
10                          we think we can move a  
11                          meaningful amount of water  
12                          through those tunnels to  
13                          protect people from flooding.  
14                          It's a lot of water, but it's  
15                          less than --- excuse me. I  
16                          know a lot of you disagree, but  
17                          they said we said that. We did  
18                          not say that. The facts don't  
19                          support that.

20                          I expect a little  
21                          respect. I respect what you  
22                          say. You don't have to respect  
23                          what I say, but you do have to  
24                          be quiet during the hearing.  
25                          We have not said that. We do

1 not think you can move  
2 significant amounts. You can  
3 move a total of 1.5 billion  
4 gallons a day, which sounds  
5 like a lot of water, but an  
6 inch of water across the basin  
7 is 16 billion gallons. So it's  
8 a limited amount, and we've not  
9 attempted to do that, or use it  
10 that way. It was not designed  
11 for that purpose, so there are  
12 restrictions. Are we looking  
13 at it? Yes. We're looking at  
14 everything that will get any  
15 amount of additional flood  
16 protection for people, but we  
17 want to keep expectations  
18 realistic. As you just said  
19 you thought that big important  
20 thing for protecting people.  
21 We don't think it is. But if  
22 do that in increments we'll try  
23 and get that, if that helps  
24 answer your question.

25 Identify yourself for

1 the stenographer.

2 MR. MURPHY:

3 Tom Murphy, New York  
4 City DEP. We haven't actually  
5 started to repair the tunnels.  
6 But the actual long shut down  
7 of the tunnels are years off,  
8 and when we --- as we're  
9 developing the plan for  
10 significant shutdowns we'll  
11 certainly be reaching out to  
12 our partners in the basin to  
13 come up with a coordinated  
14 effort to manage the different  
15 circumstances than the normal  
16 operations.

17 MR. TILL:

18 Jeff Till. When you're  
19 doing all this modeling and we  
20 were talking about the flow  
21 conditions and temperature.  
22 You're also going to be looking  
23 at the environmental impacts,  
24 and I'm not just talking to the  
25 fishery but I'm talking about

1 water supply because as  
2 temperatures go up flows go  
3 down, your nutrient loads are  
4 fairly high and the impact on  
5 the water supply intakes of  
6 THMs and other possible  
7 byproducts and high bacterial  
8 counts. Is that going to be  
9 part of the modeling, the water  
10 quality, as well?

11 MS. COLLIER:

12 We'll be looking at the  
13 flood prevention opportunity.  
14 And New York City water supply  
15 is going to be very concerned  
16 about anything we might do that  
17 would affect their drinking  
18 water supply.

19 MR. TILL:

20 But I meant if you ---  
21 at lower levels reservoir you  
22 can't supplement your summer  
23 flows, and you get a higher  
24 concentration of nutrients; you  
25 get algae blooms, and then that

1           impacts water quality and then  
2           you kill the bacteria with  
3           chlorine, as Trenton does, as  
4           Philadelphia does, since they  
5           don't have ozone systems, you  
6           then get high levels of THMs,  
7           so you're looking at human  
8           health as part of it when  
9           you're looking at water  
10          quality.

11                           CHAIR:

12                           Those are comments you  
13                           can make as you look through  
14                           the details of the plan. Thank  
15                           you. Other comments about the  
16                           presentation? There's going to  
17                           be public comments about  
18                           anything you want that relates  
19                           to the presentation? Sir?

20                           MR. ZIMMERMAN:

21                           Yes. Jeff Zimmerman,  
22                           NDIWC. Gary, if I heard you  
23                           correctly once the Decree  
24                           Parties sign the FFMP agreement  
25                           you, the River Master, are

1 going to start implementing  
2 that?

3 MR. PAULACHOK:

4 That would be  
5 implemented upon authorization  
6 by the Decree Parties,  
7 unanimous authorization.

8 MR. ZIMMERMAN:

9 So by approximately  
10 October 1st you're going to be  
11 implementing the FFMP?

12 MR. PAULACHOK:

13 That's our hope.

14 MR. ZIMMERMAN:

15 Right. One of your  
16 slides has rescissions listed  
17 and you said, I believe, in  
18 passing that the revisions are  
19 to the DRBC dockets?

20 MR. PAULACHOK:

21 Yes, dockets and  
22 resolutions.

23 MR. ZIMMERMAN:

24 Do you know which ones  
25 and who does that? Does DRBC

1 do that or do the Decree  
2 Parties do it?

3 MR. PAULACHOK:

4 I think most of those  
5 already have expired and gone  
6 off the books. They were  
7 temporary programs, so I think  
8 they're pretty much all gone  
9 away by now, but Pam, you may  
10 be able to answer that.

11 MS. BUSH:

12 Actually I'm a little  
13 confused, but I need to correct  
14 you on one point that the FFMP  
15 alone can't rescind.

16 MR. PAULACHOK:

17 It's a recommendation to  
18 the DRBC. I should make that  
19 clear.

20 MS. BUSH:

21 The agreement makes a  
22 recommendation.

23 MR. PAULACHOK:

24 The agreement can't  
25 rescind a DRBC action. It



1 recommends. I misspoke. It  
2 recommends that the DRBC  
3 Commissioners rescind those.

4 MS. BUSH:

5 But some of the  
6 revisions are expiring.

7 MR. DONNELLY:

8 Rev. 7, Rev. 9 expire at  
9 the end of the month.

10 MR. ZIMMERMAN:

11 No, I know that, and I'm  
12 trying to figure out what  
13 revisions are left to be  
14 rescinded. The only one I know  
15 of is Revision 1.

16 MR. WARREN:

17 That's correct.

18 MR. ZIMMERMAN:

19 Are you going to rescind  
20 Revision 1 or is that the  
21 recommendation?

22 MR. WARREN:

23 There is a  
24 recommendation in the Decree  
25 Party agreement that we rescind

1 Rev. 1 to the extent that it  
2 would be inconsistent with  
3 implementing the FFMP.

4 MR. ZIMMERMAN:

5 I see. Okay. Thank  
6 you.

7 CHAIR:

8 All right. Anything  
9 else specifically on the things  
10 that were shown in the slides?  
11 Thank you.

12 BRIEF INTERRUPTION

13 CHAIR:

14 We're not adjourned;  
15 we're not in order. There are  
16 still presentations,  
17 discussions, resolution on the  
18 table and additional public  
19 comment, so you can leave  
20 whenever you want to, but ---.

21 Bill is going to do some  
22 verification that we just had a  
23 segue for, about what does Rev.  
24 1 have to do with the FFMP  
25 anyway, and are there things

1           that we would need to reconcile  
2           between those two documents.

3                         MR. MUSZYNSKI:

4                         I think a lot of the  
5           comments that have already been  
6           made on 7 and 9, and some of  
7           those actually relate to this  
8           as well.

9                         But the first question  
10          at least that I've heard a  
11          couple of times that keeps  
12          coming up is what happens on  
13          October 1st. On October 1st,  
14          Revs. 7 through 9 which really  
15          means if you look at them, 2  
16          through 9 expire.

17                        You revert back to what  
18          we call Rev. 1, so what I did  
19          here is I tried to put in a  
20          quick overview what the  
21          comparison between what  
22          allowing the implementation of  
23          FFMP would mean versus  
24          reverting back to Rev. 1, just  
25          so the people have a general

1 concept of what the differences  
2 are because they begin to be  
3 dramatic.

4 And so the first slide,  
5 these are ten items that I just  
6 put up. If you look at Rev. 1  
7 it has the original 1983  
8 curves. The three curves are  
9 separated by something like 20  
10 billion gallons each.

11 The FFMP, the tops and  
12 the bottoms of the curves seem  
13 to have been changed, but the  
14 warning zone is now split into  
15 watch and warning zone and the  
16 curve between them has been  
17 raised by about four billion  
18 gallons, so you can see there's  
19 a definite difference there.

20 If you move on to the  
21 next one, diversions. Rev. 1  
22 has a maximum diversion of 800.  
23 We've already heard about that  
24 35 mgd table. That means that  
25 the max diversions in the FFMP

1           theoretically go between 765  
2           and 800, 0 to 35. That's how  
3           those two relate, and the  
4           actual value has to be  
5           determined each year on June  
6           1st by New York City.

7                     The Jersey diversion,  
8           which is another change in the  
9           FFMP. Under Rev. 1, it was  
10          185, 70 and 65 under the  
11          different drought conditions.  
12          Under the FFMP it now becomes  
13          100, 185 and 85, so ---.

14                     MS. PUTNAM:

15                     Isn't it actually 100,  
16          170, 55?

17                     MR. MUSZYNSKI:

18                     Sixty-five (65). Isn't  
19          that right?

20                     MS. PUTNAM:

21                     It is a hundred at  
22          watch.

23                     MR. MUSZYNSKI:

24                     Okay.

25                     MR. MUSZYNSKI:

1                   I tried to do this last  
2                   night. All right. So we'll  
3                   have to correct that, but still  
4                   --- there's still a 20 mgd  
5                   difference when it's needed.

6                   Number four, the excess  
7                   release quantity that people  
8                   talk about, in the FFMP it  
9                   becomes an interim excess  
10                  release quantity, and it shows  
11                  that there's a difference in  
12                  the cfs days between what Rev.  
13                  1 provided for during normal  
14                  conditions and what the FFMP  
15                  provides for during normal  
16                  conditions roughly a 4,000 cfs  
17                  day difference.

18                  Five. The city  
19                  reservoir conservation releases  
20                  and I think Dr. Muralidhar  
21                  explained this a lot better  
22                  than I'm going to do up here,  
23                  but if you just look at what  
24                  Rev. 1 had, in the first  
25                  instance, in summer normal, it

1 looks like you release more  
2 water under summer normal  
3 conditions. However, if you  
4 look at the tail end of that  
5 there are more releases now  
6 from larger release in essence  
7 from Pepacton and from  
8 Neversink.

9 So you have a  
10 difference. Sometimes use the  
11 term natural flow, natural flow  
12 and I think what people are  
13 really saying is more balanced  
14 flow. You're not getting these  
15 ups and downs. The basic  
16 release during the summer was  
17 about a third --- in the winter  
18 it's about a third of the  
19 summer release. The FFMP it  
20 now becomes half of the summer  
21 release, getting again into  
22 more discharge.

23 MR. WARREN:

24 Bill, just to clarify,  
25 the basic would be L5 or

1 drought emergency conditions?

2 MR. MUSZYNSKI:

3 I'd have to go back ---.

4 UNIDENTIFIED SPEAKER:

5 In Rev. 1 is two months  
6 long, and in FFMP it's three  
7 months long. In Revision 1,  
8 summer is only June 15th to  
9 August 15th, and in the FFMP  
10 summer is between June 1 and  
11 August 30th?

12 MR. MUSZYNSKI:

13 Right. We've changed  
14 those.

15 MR. HARKIN:

16 There's also --- in Rev.  
17 1 you had a gated valve system,  
18 so you had to have a minimum  
19 325. We actually got more  
20 water back then, with the gated  
21 valves.

22 CHAIR:

23 I'm just going to remind  
24 you that we're trying to make a  
25 record, and so it complicates



1 things if you don't identify  
2 yourselves.

3 MR. HARKIN:

4 I'm sorry. Lee Harkin.

5 CHAIR:

6 Thank you.

7 MR. MUSZYNSKI:

8 Another basic  
9 difference, number six, is the  
10 tailwater habitat protection  
11 program. Rev. 1 had a basic  
12 program provided. We now have  
13 enhanced protection. There are  
14 higher releases in each of the  
15 seasons and for all drought  
16 conditions as has been  
17 explained.

18 So there is again a  
19 difference --- a net positive  
20 difference in going to the FFMP  
21 rather than reverting to Rev.  
22 1.

23 The general protection  
24 bank, that is one of the  
25 differences we've heard comment

1 on. There is no bank for that  
2 particular release where there  
3 was a 6,000 cfs bank release  
4 under Rev. 1.

5 Salt front repulsion,  
6 Rev. 1 did have releases from  
7 the city reservoirs designed to  
8 meet the --- basically the  
9 Montague flow target. Under  
10 FFMP, essentially those  
11 releases will come either out  
12 of the IERQ or down basin  
13 reservoirs to continue the salt  
14 vernier target flow. Both  
15 provisions added only during  
16 drought.

17 MR. MURPHY:

18 It should be pointed  
19 out, too, that under the FFMP  
20 New York City is still making  
21 releases, but they're just not  
22 related to the movement of the  
23 salt front.

24 MR. MUSZYNSKI:

25 Not directly related.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. MURPHY:

Correct. It's still acts to affect the salt front, but it's not --- the quantity is not based on that.

MR. MUSZYNSKI:

Nine, there was no mitigation release program under Rev. 1. There is no, since it's still there. Under the FFMP there are reservoir releases provided throughout the year depending, again on the levels in the reservoirs, as was aptly explained by the people up here before me.

Ten, impacts on public water supply systems. I think they wanted to try to keep it drought neutral in essence, and they got a little better condition, I guess, under certain drought conditions, about 200 days, but overall under the top three condition

1           it's about the same. That's  
2           it.

3                         CHAIR:

4                         Questions for Bill of  
5           what was up there?

6                         MS. REICHART:

7                         Elaine Reichart, ACU.  
8           Did you do a comparison of the  
9           FFMP against Rev. 7 and Rev. 9?

10                        MR. PAULACHOK:

11                        I think that they talked  
12           about the differences between 7  
13           and 9. To me it doesn't really  
14           matter because 7 and 9 are not  
15           on the table. They can't be.  
16           The only way 7 and 9 can be  
17           continued would be with  
18           unanimous consent of the Decree  
19           Parties. They automatically  
20           expire otherwise.

21                        MS. REICHART:

22                        I understand that, but I  
23           think people need to see an  
24           analysis of what they're  
25           losing, because if you look at

1 Rev. 1 as I understand it, and  
2 the fishermen in here can  
3 correct me if I'm wrong, and  
4 I'm sure they will, Rev. 1, you  
5 had not only a different valve  
6 system in the past. Okay? And  
7 that's not really reflected  
8 number one, but you also have  
9 two banks, thermal and habitat,  
10 which yes, you did it --- you  
11 mentioned that in a subsequent  
12 slide. So truly, you know, a  
13 comparison would be what in a  
14 flow say, this past summer, if  
15 you took actual numbers of what  
16 happened this past summer and  
17 said, okay, if we had FFMP,  
18 this is what it will look like,  
19 if we have Rev. 1 this is what  
20 it would look like. But you're  
21 not going to be able to do a  
22 comparison ---.

23 MR. MUSZYNSKI:

24 I believe when they were  
25 discussing what the differences

1           were, they were pointing out  
2           increased flows, and they were  
3           being pointed out relative  
4           to 7.

5                     DR. MURALIDHAR:

6                     We have an analysis  
7                     through OASIS and the DSS  
8                     models and they showed that  
9                     this project significantly  
10                    improves ---.

11                    MS. REICHART:

12                    Oh, you mean the  
13                    comparisons that show FFMP had  
14                    a 765 million gallons a day  
15                    draw and the Rev. 7 and 9 had  
16                    800 million gallons a day, and  
17                    the fact that there's no data  
18                    sets for 2001, 2, 3, 4, 5, and  
19                    6? I mean, is that the  
20                    comparison you talk about?

21                    DR. MURALIDHAR:

22                    No.

23                    MS. REICHART:

24                    Oh, okay.

25                    DR. MURALIDHAR:

1                   That's not the  
2                   comparison.

3                   CHAIR:

4                   That's an issue too,  
5                   that you want to look into ask  
6                   some questions and make  
7                   comparisons or request certain  
8                   comparisons. You'll have that  
9                   comparison, too. I think the  
10                  point was to show you --- the  
11                  point of this is for the  
12                  Commissioners to determine  
13                  whether they should have any  
14                  objection to the parties going  
15                  to FFMP rather than Rev. 1,  
16                  which goes into place in the  
17                  absence of that. And we're  
18                  looking to see if we're  
19                  comfortable that, in fact, FFMP  
20                  is better in terms of the  
21                  issues which we're trying to  
22                  address. That's what this  
23                  analysis is for. We asked of  
24                  the analysis. Okay.

25                  Ken, can you talk about

1 the resolution specifically and  
2 then we can get public comment  
3 on the resolution?

4 MR. WARREN:

5 Sure. I'd be happy to.  
6 The staff has drafted for the  
7 Commissioners' consideration a  
8 resolution to authorize the  
9 Executive Director to provide  
10 public notice of the Decree  
11 Party agreement by posting on  
12 the web site and also to  
13 publish for public comment and  
14 hearing proposed regulations to  
15 implement any Decree Party  
16 agreement.

17 And I won't read the  
18 entire resolution, but I would  
19 note that it says that  
20 Revisions 2 through 9 inclusive  
21 of the existing docket are  
22 expiring on September 30th,  
23 that the Decree Parties have  
24 been negotiating the terms of a  
25 Flexible Flow Management Plan,



1           that between February 12th and  
2           March 1st, the DRBC published  
3           the then existing substance of  
4           the FFMP, and in response to  
5           the notice received, written  
6           and oral comments from  
7           approximately 120 agencies,  
8           organizations, elected  
9           officials and private citizens,  
10          that during that public comment  
11          period, which was robust, the  
12          parties continue to negotiate  
13          the FFMP, and the Decree  
14          Parties have now reached an  
15          agreement.

16                        So the resolution would  
17                        authorize the Executive  
18                        Director to publish the FFMP on  
19                        the DRBC's web site so the  
20                        public would have a full  
21                        knowledge of all of its terms  
22                        and contents.

23                        And also authorize the  
24                        Executive Director to publish  
25                        proposed regulations to

1           implement the FFMP on the  
2           Commission web site and in the  
3           appropriate federal and state  
4           registers, with accompanying  
5           notice the DRBC will accept  
6           written comments on the  
7           proposed regulations.

8                           CHAIR:

9                           Thank you, Ken.

10                          MS. BUSH:

11                          I was just going to add  
12                          that the rule-making schedule  
13                          that we have now in place for  
14                          proceeding, assuming that this  
15                          resolution is approved, is to  
16                          publish rules. We need to  
17                          draft rules and/or dockets to  
18                          implement this proposal, FFMP  
19                          proposal, and try to have those  
20                          published in all of the  
21                          appropriate registers by  
22                          December 3rd. Our filing date  
23                          to accomplish that is October  
24                          30th, so that gives us 30 days  
25                          to put together a package that

1           the Commissioners are  
2           comfortable with submitting for  
3           public comment, in other words,  
4           that tracks that FFMP agreement  
5           that the Decree Parties have  
6           proposed.

7                         Publication in all the  
8           registers we've determined with  
9           submittal by October 30th will  
10          be achieved by December 3rd.  
11          And then we'd begin for public  
12          comment period on that date, so  
13          if we allow for a 45-day  
14          comment period, we can hold a  
15          hearing during that time,  
16          probably in mid-January, the  
17          tentative date that we have  
18          identified is January 16th.  
19          But when the notice is  
20          published there will be a  
21          specific confirmed date.

22                         The comment period would  
23          end --- is projected to end by  
24          January 18th and that allows  
25          for 45 days of comment from the

1 last date of publication. You  
2 will have had an opportunity  
3 because the documents will be  
4 on the web site for a longer  
5 period of time.

6 And then the staff needs  
7 to put together a comment and  
8 response document essentially  
9 compiling all of those comments  
10 and then developing responses  
11 and recommendations to them.

12 At that point the  
13 Commission and the Decree  
14 Parties need to confer and  
15 describe what changes in the  
16 program, based on that input,  
17 they can agree upon, and then  
18 they can adopt a final rule.

19 So in the course of that  
20 period and there will  
21 undoubtedly be opportunities  
22 for question and answer.  
23 There'll be information  
24 sessions, and those have not  
25 been scheduled, but they --- at

1           least one will take place on  
2           December 12th, the Commission's  
3           next meeting date, probably  
4           right here unless the  
5           Commissioner decides to change  
6           the location.

7                         But please check the  
8           Commission's web site for  
9           confirmation of those details.  
10          Those are tentative dates that  
11          I've given you and we're going  
12          to try to get this scheduled.  
13          The hope is that we could have  
14          Commission action by May 7.  
15          May 7th is the spring  
16          Commission meeting at which we  
17          could get a final rule adopted.

18                         If it can be done  
19          faster, we will try to do it  
20          faster, but we have to balance  
21          the --- you know, ample  
22          opportunity for the public to  
23          comment and evaluate these  
24          complicated proposals against  
25          the desire to put something,

1           you know, better in place on a  
2           permanent or long-term basis.

3                     CHAIR:

4                     Thank you, Pam. That  
5                     sums it up quite well.

6                     All right. Are we going  
7                     to put the resolution on the  
8                     table for discussion? Do I  
9                     have a motion adopt the  
10                    resolution?

11                    MR. KLOTZ:

12                    So moved.

13                    GEN. SEMONITE:

14                    Second.

15                    CHAIR:

16                    Discussion from the  
17                    Commissioners? Comments from  
18                    the Commissioners?

19                    MR. DONNELLY:

20                    Well, I'd just like to  
21                    comment on all --- I know  
22                    there's been an awful lot of  
23                    work done by all the parties on  
24                    the FFMP. I think we all look  
25                    forward to additional public

1 interaction over what ---  
2 looking at the schedule Pam  
3 described, certainly over the  
4 next six to seven months,  
5 easily, and closer to eight.  
6 And I think it's appropriate  
7 that we move forward at this  
8 point, and so I look forward to  
9 the vote.

10 CHAIR:

11 Thank you. Other  
12 Commissioners would like to  
13 comment?

14 MS. PUTNAM:

15 One of the things I'll  
16 just say, and I guess I echo  
17 that there's been an awful lot  
18 of work put into this, and  
19 thank you, everybody that was  
20 involved. But one of the  
21 things that we're looking  
22 forward to is that  
23 comprehensive reassessment,  
24 because we think that so many  
25 of the issues that are brought

1 up we really need to take a  
2 closer look at many of them and  
3 trying to coordinate the  
4 activities and the re-  
5 assessments as part of this  
6 FFMP with a lot of the flow  
7 mitigation modeling and other  
8 work that's going on, and I'm  
9 glad to move forward with it.

10 CHAIR:

11 Other Commissioner  
12 comments? I'd like to really  
13 jump off on what Michelle  
14 started. I think there are two  
15 things, two really important  
16 things, to discuss. One, it  
17 takes us away from an issue-by-  
18 issue piecemeal approach, so if  
19 the fisheries that are doing  
20 well with a little extra water,  
21 why couldn't we do this by some  
22 additional resources for that?  
23 And oh, my goodness, now we've  
24 got floods. Is there something  
25 that we have infrastructure or



1 plans, or models that will help  
2 us to do better flood  
3 protection and flood mitigation  
4 and provide relief from flood  
5 damage? Instead of looking at  
6 these separately, this gives us  
7 a --- it may not be perfect  
8 yet, but it gives a baseline  
9 and a format with which to  
10 judge and look at what-if  
11 scenarios and determine whether  
12 this is really better, this is  
13 not better.

14 The kind of discussion  
15 we just had shows, I think,  
16 dramatically how much public  
17 interest and public comment  
18 there has already been on these  
19 very complicated issues. The  
20 very intelligent questions  
21 being raised, the very  
22 sophisticated understanding of  
23 this waterscape is quite  
24 remarkable. And you all to be  
25 commended and you're asking

1 good questions and posing great  
2 policy questions, and that's  
3 how we will get best management  
4 of the basin resource.

5 So I'm very excited by  
6 this because we really consider  
7 it a first step. It's taking  
8 our piecemeal program and  
9 making it comprehensive, doing  
10 a lot of re-assessment at the  
11 same time.

12 We're in a position  
13 where we know some things we  
14 can do better we want to do  
15 them now. That's what the FFMP  
16 is. It's three years because  
17 we have several ongoing  
18 studies, and we're committed to  
19 do some more studies with New  
20 York City on what options do we  
21 have? What's some of the data  
22 we don't have? How can we  
23 apply some of the models?  
24 We've got new models coming in  
25 with new tools that let us look

1 at all the possibilities you've  
2 raised and have better answers  
3 so that next year and two years  
4 from now we can take the FFMP  
5 and do good management, make  
6 appropriate changes, and keep  
7 moving.

8 It's just a start.  
9 Please continue to comment.  
10 We'll be having the full  
11 regulatory public notice and  
12 comment period to develop this  
13 into a regulation. So there's  
14 a lot of work yet to be done,  
15 but I too think this is better  
16 for each of our three concerns,  
17 better for --- certainly better  
18 for flood mitigation because we  
19 don't have anything near this  
20 sophisticated a spill reduction  
21 program in place.

22 It's better for  
23 fisheries. All of our  
24 fisheries people are telling us  
25 that this takes the water we

1           have for them and uses it  
2           better, and no harm, we think,  
3           to our drinking water supply,  
4           which has to be our major  
5           public health concern. And  
6           we'll certainly be running  
7           many, many more runs to assure  
8           ourselves that is, in fact, the  
9           case. That we're not giving  
10          away the viability of drinking  
11          water in order to provide  
12          fisheries or flood relief. So  
13          we'll have all those trade-offs  
14          to make, but this gives us a  
15          good framework in which to  
16          discuss and re-evaluate. So I  
17          am looking forward to this.

18                    Any other comments from  
19          the Commissioners?

20                    MR. KLOTZ:

21                    I'd just like to say I,  
22          too, think that this is the  
23          right path forward at this  
24          point. I commend the Decree  
25          Parties for their efforts. I

1 think this is the best program  
2 that they've developed to date,  
3 and I look forward to a  
4 continued public process here  
5 where we can receive input and  
6 potentially make further  
7 improvements to the program.

8 CHAIR:

9 Thank you, Mark. Okay.  
10 Do we have public comment?

11 MS. BUSH:

12 I have about 20 requests  
13 for comment. Many of the folks  
14 who requested to comment have  
15 asked questions and even  
16 offered comments in the  
17 proceeding session, but if I go  
18 through them they can say  
19 whether they have another  
20 comment.

21 CHAIR:

22 Let me suggest that we  
23 ask everyone to keep their  
24 comments to five minutes or  
25 less. Certainly you'll have

1 full opportunity from now until  
2 at least December for written  
3 comments and additional  
4 comments, and there'll be  
5 further opportunities. So use  
6 what you need. Let us know if  
7 you think what you said so far  
8 is sufficient for now. Go  
9 ahead with the list.

10 BRIEF INTERRUPTION

11 CHAIR:

12 I just want to make  
13 clear the context of these  
14 comments. We've already put  
15 out some of this. The  
16 resolution does make any  
17 decisions, except to go forward  
18 with the process of putting the  
19 FFMP into proposed regulations  
20 and the public comment process.  
21 So there's really not anything  
22 substantive to comment on, but  
23 we're happy to receive comments  
24 on the subject matter. But our  
25 action, specifically, is to

1           just say staff, please put the  
2           FFMP agreement into a proposed  
3           rule for public discussion and  
4           examination. That's what's  
5           really on the table.

6                           UNIDENTIFIED SPEAKER:

7           Madam Chair, I think we  
8           might have a question about  
9           process.

10                           MS. BOGEN:

11           Some of you mentioned  
12           where you said that all of the  
13           comments and responses are  
14           going to be documented, and I  
15           gather a distributor made  
16           available. What has happened  
17           to all of the comments that  
18           have come in from our elected  
19           officials and our townships, as  
20           well as individual citizens?

21                           MR. WARREN:

22           Your name was?

23                           MS. BOGEN:

24           Mary Ann Bogen,  
25           Lumberville.

1                   MS. BUSH:

2                   I was actually going to  
3                   speak to that. Before I start  
4                   naming names I wanted to just  
5                   state for the record that we  
6                   have received approximately 186  
7                   written comments just in this  
8                   period since August, mostly in  
9                   this period since the public  
10                  notice about this meeting was  
11                  published in August, and prior  
12                  to August we had many comments  
13                  that were submitted based on  
14                  notices published in February.

15                  All of those remain a  
16                  part of the record, and if  
17                  anybody has --- there's no need  
18                  to resubmit comments that were  
19                  previously submitted. In other  
20                  words, comments that are  
21                  submitted from this point  
22                  forward should supplement  
23                  previous comments and it would  
24                  actually be helpful if the  
25                  commenter states that I'm



1 supplementing a previous  
2 comment. There's no need to  
3 repeat, but you can incorporate  
4 by reference, everything I said  
5 in my letter of whatever.

6 CHAIR:

7 Plus you have 12,000  
8 petitions waiting out in the  
9 lobby.

10 MR. WARREN:

11 And there will be a  
12 comment and response document  
13 at the end of ruling process.

14 CHAIR:

15 Yes.

16 MS. BOGEN:

17 Will there be on your  
18 web site, the comments and  
19 responses document?

20 MS. BUSH:

21 It's a public document,  
22 so it is certainly available to  
23 the public. We haven't  
24 discussed whether it would be  
25 published on the web site or

1 not, but that's certainly a  
2 convenient way of making it  
3 available, so ---.

4 CHAIR:

5 Other process questions?

6 MR. WARREN:

7 We have a question over  
8 here, I think, on process.

9 MR. BECKER:

10 Just a brief question.  
11 Jerry Becker, Frenchtown. I  
12 appreciate what the  
13 Commissioners that done, the  
14 work they've put in. I know  
15 you spoke about having more  
16 public comment. I would like  
17 to see a larger venue so that  
18 we don't have people sitting  
19 outside. I'm watching some of  
20 my friends from Frenchtown who  
21 have left, because they  
22 couldn't get in here and so on.  
23 I don't know if we have another  
24 place that would hold more  
25 folks. Something to consider.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIR:

We have held hearings in the past in larger rooms, in different locations. We were up in Wallenpaupack, and we've had other ones. But we'll try and have a larger space. Anything else? All right. Then let's do the comments.

MS. BUSH:

First we'll go to the ones who signed up and then we'll ask if anyone else would like to comment. Elaine Reichart?

MS. REICHART:

Where would you like me? My name is Elaine Reichart. I'm part of the Aquatic Conservation Unlimited Group. I feel like we may as well be in Atlantic City because the House always wins. Legally the DRBC is turning the clock back years to a plan created in

1           1983, without all the knowledge  
2           gained in the past 24 years.  
3           What about the continued  
4           balancing act that has happened  
5           in two decades?

6                         The Commission can  
7           disapprove the Decree Party  
8           decision if it chose to.  
9           However, when four fifths of  
10          the Compact party are the  
11          Decree Party, one wonders why  
12          --- you know, that never  
13          happen, which then brings up  
14          the larger question, why did  
15          you even bother to do it that  
16          way?

17                        What's the advantage to  
18          you guys to doing it as a  
19          Decree Party and not stepping  
20          up to the plate as the federal  
21          organization that you were  
22          created to be? The Commission  
23          is willing to let the forum  
24          that Ken talked about, which is  
25          Revs. 7 and 9 in my opinion,

1 sunset because you, the DRBC,  
2 has nothing to put in its  
3 place. You're in the position  
4 to enforce Rev. 1, but you  
5 could be in the position to  
6 enforce Revs. 7 and 9.

7 The DRBC has abdicated  
8 its authority to the will of  
9 New York City. What a weasel  
10 of a deal. It's irresponsible  
11 of you not to continue Revs. 7  
12 and 9. You could ask me, how  
13 do I know your FFMP plan  
14 implementation is bad with the  
15 legal plan before us of Rev. 1?

16 Well, for the people  
17 communities, taxpayers and cold  
18 water aquatic species, I know  
19 this because if you do not have  
20 20 percent year-round voids in  
21 each reservoir and if you do  
22 not have healthy cold water  
23 aquatic life sustaining  
24 releases of a minimum of 350  
25 CFSs in Cannonsville, 125 cfs

1 in Neversink and 300 --- 230  
2 CFSs in Pepacton, all at the 40  
3 to 49 percent capacity level,  
4 then your plan is unacceptable  
5 to the environment, to the  
6 communities and to the economic  
7 dependent and co-located  
8 communities on the Delaware.

9 The DRBC is the  
10 rulemaking entity for the  
11 Delaware River Basin's use of  
12 aquatic resources of the  
13 Delaware River. You oversee and  
14 control all uses as we have  
15 just seen this afternoon. All  
16 dockets and permitting must be  
17 approved by you before entities  
18 may use the Delaware River.  
19 There exists the double  
20 standard, and legal does not  
21 make it right, nor does it make  
22 it equitable.

23 There's New York City  
24 and there's everyone else.  
25 You, the DRBC, should be

1           policing New York City and  
2           preventing them from flooding  
3           us. Safety voids of 20 percent  
4           would go a long way to protect  
5           us.

6                       Preliminary evidence  
7           furnished to you by the  
8           National Weather Service has  
9           proven safety voids would stop  
10          preventable man-made flooding  
11          from happening again. How and  
12          when will you use this proof to  
13          fashion a plan to protect us?

14                      You have never lived up  
15          to your charge given to you by  
16          the Compact agreement. The  
17          very first three paragraphs  
18          gives you the authority to  
19          prevent New York City from  
20          flooding us.

21                      You abdicate your  
22          authority to step in and demand  
23          safety protocols, i.e., 20  
24          percent voids, safety voids,  
25          siphoning valves, et cetera,

1 from being incorporated into  
2 their management operating  
3 practices.

4 You need to be aware of  
5 their business plans, their  
6 project plans, both in the  
7 short term and the long term.  
8 They cannot deny you because  
9 you must know this information  
10 if you are to protect us. They  
11 must agree to a water supply  
12 system-wide comprehensive yield  
13 study, which apparently you  
14 guys just negotiated away, no  
15 problem.

16 Our way of life in all  
17 communities and states that  
18 take surface water withdrawals  
19 from the river depend on  
20 equitable apportionment.  
21 Clearly New York City DEP has  
22 abused and misused our  
23 collective resource, and you  
24 have allowed them to do it.  
25 New York City hoards water.



1           The reservoirs have been a  
2           hundred percent full so much in  
3           the past that according to  
4           Emily Lloyd, head of the New  
5           York City DEP, the three New  
6           York City Delaware River  
7           reservoirs have spilled an  
8           average of 636 million gallons  
9           a day for the past two years.

10                       New York City wastes  
11           water. New York City leaks an  
12           admitted 35 million gallons a  
13           day, and that is just what they  
14           admit to. They're so greedy  
15           that they waste all this water  
16           and then claim they can't  
17           support the cold water  
18           ecosystems of the river  
19           including the support of the  
20           endangered dwarf wedge mussel.

21                       New York City is  
22           incompetent. Don't take my word  
23           for it. Take the New York State  
24           Comptroller's word for it. The  
25           scathing and blistering report

1 published not long ago warns  
2 New York City DEP not to take  
3 full or near full diversions  
4 and send them down the Delaware  
5 Aqueduct/tunnel because  
6 engineers who have studied the  
7 cracks and leaks in the tunnel,  
8 fear imminent collapse, and yet  
9 what has New York City DEP done  
10 since the end of April 2007?  
11 Consistently taken almost 800  
12 million gallons a day. On June  
13 25th, three months ago, New  
14 York City DEP actually diverted  
15 1.033 billion gallons.

16 Their demand remains  
17 constant relatively speaking,  
18 so why the full legal diversion  
19 amount? Could there be a  
20 bacteria problem in the water  
21 reservoirs on the Hudson side  
22 of their supply system? Should  
23 a FAD, a filtration avoidance  
24 declaration, have been granted?

25 The DRBC's own

1           subcommittee, SEF, concludes  
2           losses in particular river  
3           segments and seasons are seen  
4           for dwarf wedge mussel,  
5           persistent habitat and shallow  
6           slow and shallow fast fish  
7           fills without the proper  
8           releases to support these  
9           aquatic ecosystems under the  
10          FFMP.

11                        You know these things.  
12           Do what must be done. Take the  
13           leadership role you were meant  
14           to take. Become the agency you  
15           were meant to be. The DRBC was  
16           created to do these things.  
17           This is why you exist.

18                        Taxpayer money at the  
19           federal and four basin state  
20           level pay for this. Find a  
21           better way to protect our  
22           lives, our river, the aquatic  
23           life and our property. All of  
24           us that call the Delaware River  
25           home must be protected. The

1 ACU has e-mailed you a void and  
2 release management plan. We  
3 offer you this plan again  
4 today, here and now. We  
5 believe this plan containing  
6 year round 20 percent safety  
7 voids and healthy sufficient  
8 cold water releases is a way to  
9 obtain safety, a healthy river,  
10 an equitable apportionment for  
11 all life that exists below the  
12 three New York City Delaware  
13 reservoirs. Thank you.

14 MS. BUSH:

15 Thank you. Mary Ann  
16 Bogen?

17 MS. BOGEN:

18 I'll pass.

19 MS. BUSH:

20 Jeff Tittle, who spoke  
21 earlier, left. Alan Ellsworth  
22 of the National Park Service.

23 MR. ELLSWORTH:

24 Yeah. I'm the Park  
25 Service hydraulist and the

1 Upper Delaware Scenic and  
2 Recreational River and Delaware  
3 Water Gap National Recreational  
4 Area management asked me to say  
5 just a couple of words here.

6 I think in general I  
7 just wanted to mention that we  
8 have and will continue to be  
9 involved in river management  
10 processes by promoting sound  
11 scientific analyses, policy  
12 review, continue to participate  
13 on committees here at DRBC and  
14 provide professional comment.  
15 We have provided written  
16 comment and continue to do so  
17 right along.

18 Specifically, issues  
19 that we're involved with we  
20 want to mention our support  
21 with respect to our park  
22 mission, protection of native  
23 species, endangered species in  
24 the river, natural processes of  
25 the river. We're concerned

1           about water quality, potential  
2           water quality effects by the  
3           change in the flow scenarios,  
4           recreational impacts and couple  
5           of improvements associated with  
6           FFMP we sent written comment  
7           on.

8                         The Decision Support  
9           System, the DSS has been  
10          mentioned with respect to  
11          improving its use and outputs,  
12          and something that we've  
13          noticed that may be lacking in  
14          the FFMP is as mentioned, is  
15          definition of what the adaptive  
16          process will look like, and  
17          we'll provide more written  
18          comment on that.

19                        But we appreciate the  
20          opportunity to comment on the  
21          work that you guys have done.  
22          Thank you.

23                        MS. BUSH:

24                        Thank you.     Jeffrey  
25                        Russo?

1                   MR. RUSSO:

2                   Thank you. My name is  
3                   Jeff Russo. I represent the  
4                   Delaware Riverside Conservancy.  
5                   It's an organization of  
6                   approximately 400 river  
7                   residents. These are the people  
8                   that are most intricately and  
9                   directly impacted by flooding.  
10                  People could lose our homes,  
11                  their lives are put in disarray  
12                  and as you all know these  
13                  flooding events take lives.  
14                  I'm speaking --- one of our  
15                  members, Diane Tharp has given  
16                  some comments and Attorney Jeff  
17                  Zimmerman is going to deliver  
18                  those comments, so after give  
19                  these brief comments I'd like  
20                  to defer to Mr. Zimmerman.

21                  I got to tell you I came  
22                  here today and many of my  
23                  clients are here today, and  
24                  they came here because this  
25                  meeting today or hearing was

1 noticed as a public hearing.  
2 And my clients took off from  
3 work, they put their lives on  
4 hold to come down here, and in  
5 reality they came down here ---  
6 I don't want to say for  
7 nothing, but it wasn't what it  
8 was supposed to be.

9 And the Commission  
10 noticed this hearing and  
11 unfortunately my clients were  
12 deprived an opportunity to  
13 respond to a plan, and there  
14 was --- the Basin Commission  
15 permitted themselves by putting  
16 out a notice and I corresponded  
17 with the Commission in this  
18 regard. And I would ask that  
19 my letter of September 20th be  
20 incorporated into the record.

21 And we wanted to submit  
22 meaningful comment and we also  
23 wanted to submit an expert  
24 report to the Commission, which  
25 is directly related to any



1 proposal today.

2 I'll be honest with you.  
3 I was quite shocked. And I know  
4 my clients were who put their  
5 lives on hold, that the FFMP  
6 was being released today  
7 without giving us the benefit  
8 to comment on it.

9 Whether an interim basis  
10 or not the notice was given, so  
11 I wanted to express my  
12 disenchantment with that as  
13 I've been fielding phone calls  
14 all week from everyone up and  
15 down the river asking me, Mr.  
16 Russo, when are we going to  
17 have a plan to comment on?  
18 They said that we're going to  
19 have a plan to comment on. How  
20 are we supposed to submit  
21 public comments?

22 So I just want to put  
23 that on the record, that the  
24 way this was handled in that  
25 regard is a problem.

1                   And you know, in that  
2                   regard I don't have the benefit  
3                   of submitting comments based  
4                   upon what was presented  
5                   earlier. I will tell you this,  
6                   the Delaware Riverside  
7                   Conservancy has an expert  
8                   report, and as I said to you  
9                   that was our plan to submit it  
10                  today in response to the Basin  
11                  Commission's plan.

12                  Unfortunately I have no  
13                  plan to submit a response to.  
14                  And I can tell you this, I'm  
15                  hopeful, and I'm attempting to  
16                  facilitate a meeting with the  
17                  Commission, to give them this  
18                  report and to review this  
19                  report with them.

20                  Of course they will get  
21                  this report, but I want to see  
22                  what the FFMP is. We have a  
23                  right to have our expert  
24                  evaluate that and respond to  
25                  it. And I can tell this

1           because I reviewed some  
2           preliminary data. It's rather  
3           shocking, and when we talk  
4           about sound science, I agree a  
5           hundred percent. When we talk  
6           about sound science I have  
7           sound science from a world-  
8           renowned hydrologist, and I  
9           hope when the Commission echoes  
10          the sound science motto, I hope  
11          they take it seriously when I  
12          give them our study.

13                         And I hope we're taken  
14                         seriously, because I'll be  
15                         honest with you, my clients  
16                         don't feel as though their  
17                         interests are properly being  
18                         protected by this Commission.  
19                         They don't feel like their  
20                         lives and their properties are  
21                         being properly protected.

22                         They want to participate  
23                         in this process, and you know,  
24                         I'm hopeful that, and  
25                         cautiously optimistic that the

1 Commission will take that  
2 seriously.

3 An observation --- and  
4 there's been some tension  
5 between the Commission and  
6 various organizations. But an  
7 observation that I've brought  
8 up by a variety of members as  
9 that it seems as though the  
10 Commission retrofits their  
11 actions.

12 In other words, they  
13 come up with something and  
14 whatever is put out into the  
15 public is designed to  
16 essentially retrofit that, to  
17 reverse engineer whatever  
18 position is promulgated, which  
19 seems to favor New York City.

20 And even looking on the  
21 web site and seeing what's  
22 being put out there, it seems  
23 to be supportive of New York  
24 City. And that's at least the  
25 sentiment of my clients. What

1 I find is after the  
2 retrofitting and if there's  
3 something that's not refutable  
4 --- I think we gotten to the  
5 point now where we realize it's  
6 pretty basic these voids can  
7 offer a significant reduction  
8 in the flooding levels going  
9 forward here, and the past  
10 flooding events.

11 But it seems to me that  
12 when the Commission is faced  
13 with that they basically throw  
14 their hands up and say, we  
15 don't have the authority. And  
16 that's unsettling to my  
17 clients. I've got to be honest  
18 with you. Because my clients  
19 look to the Commission as their  
20 voice. They look to the  
21 Commission to effectuate change  
22 and based upon what I've been  
23 hearing today with regard to  
24 the sound science and this  
25 balancing --- I've heard

1 balancing a lot today. We want  
2 to be made a part of that  
3 balancing. We want to be made  
4 part of that equation, and  
5 hopefully this sound science  
6 will do that.

7 Now, I don't want to go  
8 on and on and on, because I  
9 know that there's a lot of  
10 others that want to talk today,  
11 but let me just tell you this  
12 about our sound science.

13 We'll show --- and I  
14 want to go on the record as  
15 stating this. We'll show that  
16 voids in this reservoirs would  
17 have made a significant,  
18 significant, significant  
19 difference in these past three  
20 flooding events. More  
21 importantly, it would make a  
22 significant difference in the  
23 future depending upon obviously  
24 variety of variables including  
25 rain and so on.

1                   I hope that this  
2                   Commission, and I don't want to  
3                   keep repeating myself, takes  
4                   this sound science into  
5                   consideration. I also briefly  
6                   wanted to touch upon --- I  
7                   really wanted to direct my  
8                   comments to evaluated the  
9                   proposed plan today.

10                   I wanted to direct  
11                   comments on New York City's  
12                   fraudulent daily inspection  
13                   reports and also those leaks.  
14                   And very briefly, to be quite  
15                   frank with you, it's appalling,  
16                   and I was here a while ago and  
17                   there was a little cutout of a  
18                   rain drop with a belt around  
19                   it, and rightfully so because  
20                   water is precious.

21                   The problem it doesn't  
22                   seem as though it's precious to  
23                   New York City. We keep talking  
24                   about the ways they rebut our  
25                   request for voids is drought,

1 drought, drought, drought.  
2 Well, to us we see this water  
3 just wasting away, wasting  
4 away, wasting away.

5 Whether or not you can  
6 take legal action against New  
7 York is a different story. At  
8 least come out publicly, and  
9 say, you know what, this has to  
10 be fixed and this has to be  
11 fixed immediately.

12 And I think my clients  
13 --- what they want is somebody  
14 in this Commission to stand up  
15 and say, listen --- and the  
16 authority is a different issue,  
17 but just come out with a  
18 report, evaluate something.  
19 All I hear is we can't, we  
20 can't, we can't. We want to  
21 hear what you can do. That's  
22 what we want to hear.

23 We want to hear how can  
24 we make this happen, how can we  
25 facilitate these voids. So I



1 look forward to meeting with  
2 the members of the DRBC and  
3 hopefully, as I said, they'll  
4 take us seriously and put this  
5 sound science to good use.  
6 Thank you.

7 MS. BUSH:

8 Mr. Zimmerman?

9 MR. ZIMMERMAN:

10 For those of you who  
11 know Diane Tharp, rest assured  
12 I'm no Diane Thorpe. She's a  
13 science teacher in the public  
14 schools in Pennsylvania and  
15 lives up in the Shawnee  
16 community. And she would be  
17 here today in giving these  
18 remarks directly, but her  
19 husband had a heart attack last  
20 night. And --- yeah. He was  
21 having a catheterization this  
22 morning, so he's come out of  
23 recovery and he's doing pretty  
24 well as I understand it. So I  
25 just wanted you to know that.

1 She asked me if I would read  
2 the --- her comments into the  
3 record for today and so I'll  
4 try to do that.

5 The Delaware River Basin  
6 Compact which created the DRBC  
7 in 1961 was formed to establish  
8 a joint responsibility and  
9 control for the shared use of  
10 the Delaware River between the  
11 four states of Delaware, New  
12 Jersey, Pennsylvania and New  
13 York and the federal government  
14 with equitable apportionment of  
15 the water.

16 The New York City DEP  
17 consistently states that the  
18 reservoirs are not designed for  
19 flood control but for a water  
20 supply system. Yet in part one  
21 of the Compact does not  
22 differentiate between water  
23 supply reservoirs and other  
24 reservoirs. It simply states  
25 whereas the public interest

1 requires facilities must be  
2 ready and operative when needed  
3 to avoid the catastrophe of  
4 unexpected floods, a prolonged  
5 drought, and for other  
6 purposes.

7 Also in Article 6.1,  
8 entitled flood protection, it  
9 says the Commission may plan,  
10 design, construct and operate  
11 and maintain projects and  
12 facilities as it may deem  
13 necessary or desirable for  
14 flood damage reduction, shall  
15 have the power to operate such  
16 facilities and to store and  
17 release waters on the Delaware  
18 River and its tributaries and  
19 elsewhere within the basin in  
20 such a manner, at such times,  
21 and under such regulations as  
22 the Commission may deem  
23 appropriate to meet flood  
24 conditions as they may arise.

25 It is time for this

1 Commission to use the power  
2 granted to it to design the  
3 FFMP to contain true flood  
4 protection.

5 This Commission has  
6 spent 40 years working on a  
7 comprehensive, mandatory  
8 emergency drought plan. It is  
9 now time to spend the necessary  
10 time to design a mandatory  
11 emergency flood control plan to  
12 be included in the FFMP.

13 The plan must take  
14 Revisions 7 and 9 and add  
15 additional releases for  
16 rainfall and snow pack that  
17 will create the voids necessary  
18 to lower crest levels all year  
19 round.

20 This plan must contain  
21 20 percent voids in the New  
22 York City reservoirs until the  
23 city repairs their failing  
24 infrastructure of tunnels and  
25 aqueducts, modifies its Chelsea

1 Pumping Station and retrofits  
2 its reservoirs with flood  
3 control valves. Until this  
4 time the city is unable to  
5 divert large amounts of water  
6 to its Catskill system, thus  
7 putting all of our lives at  
8 risk.

9 Twenty (20) percent  
10 voids must also be maintained  
11 until all the dams at the New  
12 York reservoirs are inspected  
13 by entities other than the  
14 Decree Parties to ensure their  
15 safety.

16 These are earthen dams.  
17 How safe are they? Does the  
18 DRBC have the inspection  
19 reports? The people and  
20 communities in this river basin  
21 should not be put at risk  
22 because of New York City DEP's  
23 lack of management of their  
24 reservoir system and lack of a  
25 plan for their future.

1                   Finally, a group of  
2 hydrologists or engineers, not  
3 affiliated with the Decree  
4 Parties, should be given the  
5 opportunity to review the  
6 revised FFMP and send its  
7 recommendations to the  
8 Governors.

9                   In conclusion, I want  
10 each of you on this Commission  
11 to look into the faces of the  
12 people in this room. There are  
13 people who have had their lives  
14 turned upside down in only ways  
15 that flood victims can imagine,  
16 not once, not twice, but three  
17 times. They come in all sizes,  
18 professions, economic  
19 backgrounds and ages. They  
20 have integrity, honor and  
21 resiliency and are bounded  
22 together for the love of a  
23 river called Delaware.

24                   We are asking you to act  
25 today with integrity and give

1 us a plan that will protect us  
2 even if it means you must face  
3 adversity to do so.

4 Thank you very much.

5 MS. BUSH:

6 Tracy Carluccio?

7 MS. TRACY CARLUCCIO:

8 Thank you. We did hand  
9 in a written comment, but I  
10 wanted to make a few additional  
11 verbal comments.

12 We are presented today  
13 with the news that the Decree  
14 Parties have negotiated and  
15 reached an agreement, and we  
16 were sort of expecting this,  
17 but we still are surprised.  
18 The agreement was really  
19 crafted behind closed doors,  
20 and your presentation on what  
21 was decided isn't enough.

22 We need to know how the  
23 deal was crafted, what was  
24 bartered and what it really  
25 means. And we can't know that

1           because it was done in secret.  
2                         And to say that public  
3           rulemaking will follow is  
4           beside the point. This  
5           agreement has hatched a new  
6           flow management plan that will  
7           go into effect October 1st, and  
8           according to the schedule, it  
9           will be in effect for at least  
10          six months before public input  
11          will have any impact in the  
12          final adoption of rulemaking.  
13          So therefore what is being done  
14          here has been hatched behind  
15          closed doors, and it's been  
16          done without any public input.  
17                         We're fed up with this.  
18          We feel it is important and we  
19          recognize it's important, to  
20          appreciate that today truly  
21          informed public discourse about  
22          the operation of the New York  
23          City reservoirs has been  
24          frustrated by a lack of  
25          information. While we



1           understand that under the law  
2           the Decree Parties are the  
3           drivers and must reach  
4           consensus on any decision made,  
5           to understand and appreciate  
6           the given input into a viable  
7           flow management plan, we must  
8           shine the light of day on the  
9           decision-making process.

10                         And so we call upon each  
11           of the parties to the Decree to  
12           issue independent and separate  
13           public statements which outline  
14           for that sovereign state or  
15           city what it aims and goals  
16           were and are in this  
17           negotiation and agreement;  
18           whether these aims and goals  
19           were met or not met by the  
20           current FFMP; what specific  
21           facts, data and/or simulations  
22           among many dealt with that were  
23           ultimately relied upon by each  
24           party in this negotiation. And  
25           where all of this is going in

1 terms of the future and what  
2 facts and data need to be  
3 developed.

4 We do not believe that  
5 these disclosures would put any  
6 party at a disadvantage, and we  
7 urge this Commission to join us  
8 in this reasonable request.

9 The Commission should  
10 not continue to be the  
11 scapegoat or the whipping boy  
12 for the Decree Parties. The  
13 Decree Parties need to step out  
14 from behind the curtain and  
15 stop hiding behind the  
16 Commission.

17 Informed discourse will  
18 help redirect the focus to  
19 those with the authority in  
20 this arena. One of the  
21 fundamental problems with the  
22 decision-making for the river  
23 and reservoirs is that the  
24 decision makers have not  
25 devised, nor identified, nor

1           agreed upon priorities for the  
2           river.

3                         In fact, it seems clear  
4           that each of the Decree Parties  
5           has its own set of priorities  
6           from which is it operating, and  
7           you saw a list. We all saw a  
8           list of objectives for the FFMP  
9           earlier, but there has never  
10          been a clear decision or even  
11          an articulation of what of  
12          these many elements that we saw  
13          up there, water supply, low  
14          flow augmentation, tailwater  
15          fisheries, recreation, salinity  
16          control, and to some extent  
17          ecological use.

18                        How do these various  
19          elements work together and  
20          which one takes precedence over  
21          the other? This is a missing  
22          piece in the decision-making  
23          process. As a result the  
24          process is being driven by  
25          decision makers with different

1 priorities and competing goals  
2 driving endless debate and  
3 flawed decision making.

4 The reality is that the  
5 Delaware River has been over-  
6 allocated. The droughts of the  
7 1960s prove that what the  
8 Supreme Court mandated the  
9 river to do when it gave away  
10 so much of our river to New  
11 York City is impossible.

12 We need to step back.  
13 We need to set priorities, not  
14 for the reservoirs but for the  
15 river as a whole. We then need  
16 to make reservoir management  
17 decisions that support and  
18 reflect these river priorities  
19 based on the real world of  
20 today and not decisions made in  
21 1931 or 1954.

22 And the Decree Parties  
23 and the Commission need to do  
24 more than set up an FFMP that  
25 is a shortsighted stopgap to

1 shut everybody up.

2 We believe that the  
3 river priorities which best  
4 serve the common good are  
5 twofold. And I say we, I mean  
6 Delaware Riverkeeper Network.  
7 Protect ecological and free  
8 flowing health of the river  
9 including aquatic and riparian  
10 ecosystems that are so  
11 fundamental to a healthy river.

12 And two, protect the  
13 river as a clean and  
14 sustainable drinking water  
15 supply. Focused in this way  
16 with these priorities then we  
17 can ensure that the health, the  
18 safety, the economy and the  
19 communities of our region are  
20 protected.

21 Recently the entire  
22 flexible flow management  
23 concept and its goal to protect  
24 the fisheries and ecosystems of  
25 the river, has been threatened

1 with derailment by a call for  
2 an arbitrary void space, a  
3 percentage the reservoirs to  
4 serve for catching rainfall  
5 with a promise of flood  
6 control.

7 Making flood control a  
8 priority for the reservoirs is  
9 simply wrong. It provides a  
10 false sense of security for the  
11 river communities. It  
12 threatens drinking water  
13 supplies, it threatens  
14 downstream fisheries and  
15 habitats, which are both  
16 ecologically and economically  
17 important, and it will spur  
18 further rampant flood plan  
19 development.

20 And most importantly for  
21 the Delaware Riverkeeper  
22 Network and many other people  
23 it requires the raising of the  
24 dams on Delaware's headwater  
25 streams, and nobody's really

1 focusing on that aspect.

2 That will increase the  
3 threat of dam breakage. It  
4 will affect new ecosystems and  
5 new habitats, and it raises a  
6 myriad, a host of environmental  
7 and economic issues we haven't  
8 even touched on here today.

9 The raising of the dams  
10 of the Delaware's headwater  
11 streams is a concept  
12 unacceptable to the Delaware  
13 Riverkeeper Network and many  
14 others, and a concept we will  
15 challenge with every tool  
16 available to us because it  
17 brings with it such tremendous  
18 harm and risk.

19 Whether we're discussing  
20 voids in the future or voids in  
21 the present, creating flood  
22 control void spaces in the  
23 reservoirs is an artificial  
24 solution that should in no way  
25 be driving our river reservoir

1 decisions.

2 Voids won't stop  
3 flooding. Structures in the  
4 flood plain will continue to be  
5 flooded, and the flood plain  
6 will likely expand, regardless  
7 of voids in the reservoirs.

8 We cannot afford to  
9 divert attention, resources and  
10 precious time chasing  
11 ineffective solutions. The most  
12 effective way to reduce flood  
13 damage is to stop building in  
14 the flood plain and restore  
15 riparian vegetation.

16 In terms of our specific  
17 comments on what we heard here  
18 today, the draft FFMP and the  
19 announcement of a secret  
20 agreement and the discussions  
21 of the recent past all focus on  
22 raising the dams' spillways to  
23 provide additional storage.  
24 That's a solution for the  
25 future.



1                   It seems there's a  
2                   commitment to this and then  
3                   they use it as a magic bullet  
4                   to placate all of the competing  
5                   self interested solutions.

6                   Everyone has caved in it  
7                   seems to New York City's  
8                   insistence that the dams must  
9                   be raised to meet the river's  
10                  needs. That's a political  
11                  decision. It's not a  
12                  scientific one, and it's a  
13                  decision made without any  
14                  public scrutiny.

15                  We do think the concept  
16                  of limiting natural flows to  
17                  the greatest extent possible in  
18                  an adaptive, well-managed  
19                  strategy makes the most sense.  
20                  And it has the greatest  
21                  potential for achieving the  
22                  priority goals of the water  
23                  supply and ecosystem  
24                  protection.

25                  This is the approach

1           that we think needs to be  
2           implemented, but we are  
3           absolutely opposed to getting  
4           there by raising the dams. We  
5           must act.

6                         Who really benefits from  
7           this? It's not the river. It's  
8           New York City and its the  
9           developers who would get the  
10          water and New York State, New  
11          York highlands, Connecticut,  
12          the Catskills. We have to look  
13          at what is good for the river  
14          as a whole, not what's good  
15          just for New York City and  
16          those who want the water from  
17          those reservoirs. Thank you.

18                         MS. BUSH:

19                         Thank you. Chris  
20          Crockett, Philadelphia Water  
21          Department.

22                         MR. CROCKETT:

23                         Good morning. This is  
24          to supplement our comments from  
25          the Philadelphia Water

1 Department back in April.

2 My name is Chris  
3 Crockett from the City of  
4 Philadelphia Water Department.  
5 I'm just going to read from our  
6 comments here.

7 The Philadelphia Water  
8 Department is pleased to  
9 recognize the significant  
10 improvements in water resource  
11 management achieved by the core  
12 plan as contained by the  
13 agreement of the parties to the  
14 U.S. Supreme Court Decree. PWD  
15 especially applauds the  
16 improvements made by the FFMP  
17 in mitigation of the Delaware  
18 and strongly supports the  
19 comprehensive reassessment of  
20 operations, which the Decree  
21 Parties agreed to under Section  
22 15 in the agreement.

23 If done properly the  
24 comprehensive reassessment will  
25 provide valuable information

1           and guidance in directing the  
2           present and future management  
3           of water resources in the  
4           Delaware River.

5                     It's our hope that this  
6           assessment will be truly  
7           comprehensive by adequately  
8           accounting for such important  
9           factors as the proposed New  
10          York City safe yield analysis,  
11          as well as recent scientific  
12          developments in our state by  
13          supplier change, sea level  
14          rise, forest cover loss and  
15          other changes such as  
16          population projections,  
17          flooding and water resource  
18          management agendas.

19                    While the proposed FFMP  
20          has made some significant  
21          improvements in managing the  
22          resource needs in the Delaware  
23          River Basin, it is important  
24          for all parties to remember  
25          that the original and

1 continuing need for the  
2 adequate water supply should  
3 remain the primary focus of  
4 these efforts.

5 Of particular concern to  
6 the Philadelphia Water  
7 Department is the impact of the  
8 Delaware River resource  
9 management on salt. If our  
10 water treatment plant, located  
11 in the tidal portion of the  
12 Delaware River loses its water  
13 due to the salt front, then the  
14 water supply for 1.5 million  
15 persons is jeopardized.

16 As opposed to the  
17 current FFMP, detachment of the  
18 salt front will require a  
19 greater dependency on lower  
20 basin reservoirs during drought  
21 conditions prior to an adequate  
22 study demonstrating that the  
23 water basin reservoirs will be  
24 able to provide adequate  
25 repulsion during such

1 conditions.

2 Future increases in  
3 upstream populations, and the  
4 volume of projected sea level  
5 rise resulting from global  
6 warming pose additional  
7 challenges and concerns with  
8 regard to the migration of the  
9 salt front relative to the  
10 intake.

11 While PWD is hopeful  
12 that the comprehensive  
13 reassessment will fully  
14 evaluate the need to repel the  
15 salt from, and all the above-  
16 mentioned concerns, and while  
17 PWD is open to the detachment  
18 of the of the salt front  
19 vernier after the proper  
20 scientific study has been  
21 conducted, and the vernier is  
22 convincing demonstrated to be  
23 unnecessary. The Philadelphia  
24 Water Authority at this time is  
25 without firm scientific basis

1           for allowing the New York City  
2           detachment for the drought  
3           emergency salt front. If such  
4           interim detachment occurs and  
5           scientific validation of the  
6           acceptability of detachment is  
7           not achieved through  
8           comprehensive reassessment as  
9           anticipated, PWD recognizes the  
10          difficulty that this could pose  
11          for successfully reinstating  
12          the vernier to protect the  
13          water supply of the City of  
14          Philadelphia and over 1.5  
15          million people.

16                   The Philadelphia Water  
17          Department recognizes  
18          significant improvements in the  
19          water resource management of  
20          the Delaware River through the  
21          FFMP as contained in the 2007  
22          agreement and the parties to  
23          the 1954 U.S. Supreme Court  
24          decree. And we also applaud  
25          the incorporation of salinity

1           repulsion measures during  
2           normal conditions.

3                         It's our hope that the  
4           FFMP will go forward with the  
5           exception of the New York City  
6           salt detachment during drought  
7           conditions not be implemented  
8           until the completion of the  
9           complete comprehensive re-  
10          assessment of operations as  
11          proposed in Section 15 of the  
12          agreement, and a satisfactory  
13          demonstration that such  
14          detachment does not include  
15          salt encroachment to PWD's  
16          intake.

17                         CHAIR:

18                         Thank you.

19                         MS. BUSH:

20                         Gail Pedrick?

21                         MS. PEDRICK:

22                         These well over 12,000  
23           signatures have been collected  
24           by neighbors circulating  
25           petitions at county fairs, at



1 the jazz festival, at the  
2 covered bridge festival in  
3 churches and meetings and  
4 everything. Well over ---  
5 there's 880 sheets here which  
6 would go around this room eight  
7 times, and I just would like  
8 --- did you get ---?

9 MR. WARREN:

10 We're okay.

11 MS. PEDRICK:

12 Oh, okay. So what the  
13 petition is asking for is for  
14 them to be --- the reservoirs  
15 to be lowered 20 percent year  
16 round permanently. Not one  
17 reservoirs to be lowered to 80  
18 percent, not two, not three,  
19 but all three of them plus Lake  
20 Wallenpaupack, which I know is  
21 a flood control. So they can  
22 just put gates up instead of  
23 running their plant and  
24 throwing more billions of  
25 gallons down on us.

1                   The blood of the victims  
2                   are on here. Some of them have  
3                   lost their husbands in this  
4                   flood. There were two men in a  
5                   truck and their dog was lost,  
6                   so I just --- my wish, my  
7                   prayer, my ---.

8                   I'm begging you one of  
9                   you here can change this, and  
10                  we cannot allow New York City  
11                  to take the water and to kill  
12                  us. Because the June flood was  
13                  four feet below normal last  
14                  year. I want to figure not  
15                  just four feet average, figure  
16                  four feet above. And many  
17                  times during the year that  
18                  river is four and five feet  
19                  above normal. That with your  
20                  lovely reservoirs filled to the  
21                  brim, and then we had the rain  
22                  come we will get, like we did  
23                  last June, 109 billion gallons  
24                  in one week out of those  
25                  reservoirs which is the

1           equivalent of Niagara Falls  
2           flowing for 37 hours down on  
3           us. It's also on Wednesday on  
4           the 28th it was equal to almost  
5           18 Delaware Rivers flying down  
6           at us, and all I'm asking you  
7           to do is one of you to have a  
8           conscience, because you know  
9           you can divert it. You know  
10          all the things that you can do  
11          so this doesn't happen. And  
12          I'm just begging you to do  
13          something.

14                   MS. BUSH:

15                   Eleanor Miller.

16                   MS. MILLER:

17                   Yes. Eleanor Miller,  
18                   New Hope, Pennsylvania. Your  
19                   resolution doesn't give the  
20                   majority of us in this room a  
21                   very warm and fuzzy feeling.  
22                   We didn't have flooding for 50  
23                   years, and when we did it  
24                   lasted one day. These floods  
25                   that we've had, three times in

1 three years, lasted three and  
2 four days. The waters kept  
3 rising.

4 I'll never forget the  
5 first flood of these three. It  
6 was 75 degrees, sun shining,  
7 everybody out on the tow path  
8 walking, riding their bikes,  
9 and the river rising before our  
10 eyes. We had no clue, and we  
11 all went to rescue the houses  
12 in front of us who were  
13 starting to flood.

14 You can help us. We've  
15 tried to get to the governor.  
16 I must say Catherine (sic)  
17 Myers you should be very proud  
18 of you, I'm sure, because  
19 you're a good decoy. We can't  
20 get to him. We've tried to get  
21 all four governors interested.  
22 They're the ones that should  
23 be.

24 We've changed our  
25 supervisors' mind. We've got

1           Congressman Patrick Murphy on  
2           our side, working on the task  
3           force, and seven other  
4           commissioners and still you  
5           come up with this plan.  
6           Scientific schmific. You can  
7           waste years doing scientific  
8           studies when it's common sense,  
9           if you have 20 percent lowering  
10          of those reservoirs the rain  
11          has some place to go other than  
12          over the top and spilling down  
13          the river, flooding all the  
14          river towns.

15                         These are the historic  
16          towns of our country. We have  
17          history there. We don't have a  
18          lot of history in our country  
19          like there is in Europe, but we  
20          do along the river towns,  
21          because those were the settlers  
22          that settled these towns and  
23          our country, and we should be  
24          protecting them. When you live  
25          on a river you have a

1           responsibility to that river  
2           and how to maintain it. It's  
3           an asset.

4                        It's destroying us,  
5           these floods. We're living in  
6           the shadow of New York City.  
7           Why? Why? They don't even  
8           need half of the water. We've  
9           got the facts of how much water  
10          they drink. Most of the people  
11          in New York City don't even  
12          drink that water because it's  
13          not filtered. They don't think  
14          it's safe. They're drinking  
15          bottled water. Read the  
16          papers. It was in the New York  
17          Times. They're trying to  
18          convince me to drink more of  
19          those reservoirs' water.

20                       And you're the people  
21          that are governing the river.  
22          We look to you to protect all  
23          of us, not just New York City.  
24          Please do your job. That's all  
25          I have.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIR:

Thank you.

MS. BUSH:

Michael Pappadella?

UNIDENTIFIED SPEAKER:

He left.

CHAIR:

Okay. William

Rosebrock?

MR. ROSEBROCK:

Thank you for the opportunity to speak. My name is Bill Rosebrock. I've live along the Delaware River for over 50 years in Ewing, Titusville, Lambertville and Harmony. My home was flooded three times over this three-year period. As a non-scientist I have to decide listening to various testimonies basically who to trust, and Madam Chair raised the issue in her opening remarks that there's

1           questionable science floating  
2           around, coming from the  
3           citizens' groups.

4                         Well, as chairman of the  
5           Warren County Environmental  
6           Commission I've had extensive  
7           dealings with PPL and with the  
8           New York City Department of  
9           Environmental Protection on  
10          various environmental issues  
11          including power plant  
12          expansions, water quality,  
13          sewage sludge, gas bills, and I  
14          would suggest respectfully that  
15          if this Commission is relying  
16          on testimony and data and  
17          analyses from PPL then it's the  
18          Commission's science that needs  
19          to be put in question.

20                        If the Commission is  
21          relying upon data and analyses  
22          from the New York City  
23          Department of Environmental  
24          Protection then it's the  
25          Commission's science that needs



1 to be put into question.

2 As you live along the  
3 river you kind of develop a  
4 feel for how far up to pull the  
5 boat, when to move the car as  
6 the water rises based on the  
7 amount of rain. And it's like  
8 Groucho Marx said, who are you  
9 going to believe me or your  
10 eyes?

11 The event that told the  
12 truth to me was in late 2005  
13 when we had 9 inches, or 10  
14 inches or 11 inches of rain. I  
15 don't remember the exact  
16 amount. Of all my neighbors  
17 who had already suffered a  
18 flood too, were moving  
19 furniture out. I mean, the  
20 fire department was on our  
21 street with dozens of  
22 volunteers, who were the local  
23 heroes, moving the furniture  
24 out. And the water only rose  
25 three or four feet. We all

1           scratched our heads and said,  
2           what's going on? I mean, this  
3           should be up into our living  
4           rooms by now.

5                         Somebody, you know, went  
6           on the internet, you know,  
7           somebody who knew about the  
8           science and they said, well,  
9           there were voids in the  
10          reservoirs and we all just  
11          shook our heads and that was  
12          all we needed to know.

13                        And I can't really speak  
14          to the fancy graphs and all the  
15          science that goes with it, but  
16          that was the truth that I saw.

17                        And finally I'd like to  
18          echo comments from the  
19          gentleman from Frenchtown.  
20          This is not an adequate meeting  
21          space. And at your next public  
22          hearing I would hope that you  
23          wouldn't load the agenda with  
24          routine items, so that this  
25          issue can be dealt with

1 properly. Thank you very much.

2 CHAIR:

3 Thank you.

4 MS. BUSH:

5 Mark Hardle (phonetic)?

6 MR. HARDLE:

7 Good afternoon,

8 everyone. My name is Mark  
9 Hardle and I'm here to provide  
10 testimony on behalf of the  
11 Pennsylvania Fish and Boat  
12 Commission regarding  
13 implementation of a Flexible  
14 Flow Management Program for the  
15 operation in the New York City  
16 Delaware Basin reservoirs. The  
17 Pennsylvania Fish and Boat  
18 Commission acts on behalf of  
19 the public in Pennsylvania to  
20 protect, conserve and enhance  
21 the Commonwealth's aquatic  
22 resources and provide fishing  
23 and boating opportunities  
24 throughout the state.  
25 Protection, conservation and

1 enhancement of the world class  
2 trout fishery, chad fishery and  
3 aquatic community including  
4 endangered species supported by  
5 the Delaware River releases can  
6 be advanced through the  
7 implementation of a Flexible  
8 Flow Management Plan.

9 The aquatic communities  
10 and angling opportunity found  
11 in the Delaware River have no  
12 substitute anywhere in our  
13 state. We've been a silent  
14 partner supporting the  
15 Pennsylvania Department of  
16 Environmental Protection in  
17 their efforts to develop the  
18 Delaware River Basin  
19 Commission's policy and have  
20 been a part of the Subcommittee  
21 for Ecological Flows or SEF,  
22 SEF's efforts to evaluate a  
23 Flexible Flow Management Plan.

24 We support the Flexible  
25 Flow Management Program and

1 believe that tailwater habitat  
2 protection and discharge  
3 management program THPDMP,  
4 advanced by SEF is the best  
5 available means to manage water  
6 released from New York City  
7 reservoirs for the benefit of  
8 downstream fisheries.

9 The proposed tailwater  
10 habitat protection and  
11 discharge management program  
12 was developed using the  
13 Decision Support System model  
14 that evaluates varying flow  
15 impacts on key aquatic species  
16 and life stages.

17 We believe  
18 implementation of the THPDMP  
19 will result in improvement of  
20 habitat conditions for spawning  
21 chad and all trout. Water  
22 formerly managed in emergency  
23 banks will be scheduled into  
24 releases, reducing delay and  
25 human error. Temperature

1 concerns, particularly for  
2 adult trout in the Delaware  
3 main stem they remain, and  
4 response of dwarf wedge mussels  
5 fishing inhabiting shallow fast  
6 water deserve scrutiny  
7 following implementation of the  
8 new plan.

9 We recognize that  
10 reservoir storage and flows are  
11 managed on a year-by-year and  
12 day-to-day basis. Our agency  
13 encourages patience in the face  
14 of variable conditions to give  
15 a Flexible Flow Management Plan  
16 an opportunity to perform under  
17 variable conditions that will  
18 undoubtedly occur.

19 This testimony is a good  
20 opportunity to stress the  
21 importance of gathering  
22 additional technical  
23 information regarding  
24 biological response to the new  
25 flow plan, and the value of

1 adding more precise water  
2 information into the Decision  
3 Support System model to direct  
4 future flow management  
5 decisions. Continued  
6 assessment should be inherent  
7 in a plan that is flexible.

8 Finally, we would like  
9 to address some important  
10 elements that have merit, but  
11 are not part of any proposed  
12 plan. Reservoir ramping rates  
13 have not been addressed in any  
14 proposal plan. Commitments in  
15 this area to reduce habitat  
16 impacts would be helpful.

17 Implementation of  
18 drought conditions has a  
19 powerfully negative impact on  
20 releases, with higher  
21 temperatures which affect  
22 coldwater fisheries. We support  
23 incorporation of additional  
24 rule curves with modified  
25 releases between L1, the 75

1           percent storage capacity curve,  
2           and L2, the drought watch  
3           curve. Releases higher than L2  
4           releases would dampen negative  
5           effects and support lower  
6           temperatures in the river and  
7           reduce storage levels.

8                   SEF has suggested  
9           improvement of the OASIS model  
10          by better estimating  
11          unregulated flows and more  
12          accurately modeling diversion  
13          quantities.

14                   We support these  
15          suggestions, and thank you for  
16          the opportunity to provide this  
17          testimony.

18                   CHAIR:

19                   Thank you.

20                   MS. BUSH:

21                   Christine Rister

22                   (phonetic)? Scott Burgess?

23                   MR. BURGESS:

24                   My name is Scott

25                   Burgess. I'm the Lower



1           Makefield Township appointee to  
2           the Bucks County/Delaware River  
3           Flood Task Force. And we had  
4           written a letter to Governor  
5           Rendell and the task force  
6           asked me to read it here today.

7                         Dear Governor Rendell,  
8           The Bucks County Delaware River  
9           Flood Task Force is a 17-member  
10          panel created by the County  
11          Commissioners of Bucks County  
12          and representing the 17  
13          riverfront municipalities in  
14          the county. We have been  
15          meeting since May 2007, having  
16          been charged by the  
17          Commissioners to review in  
18          depth the recommendations made  
19          the Delaware River Basin  
20          Commission in its report, Flood  
21          Mitigation Task Force  
22          Preliminary Action Plan 2007,  
23          and to identify ways in which  
24          the Delaware River communities  
25          can be better equipped to

1 minimize flooding and flood  
2 damage.

3 We have heard from many  
4 organizations and individuals  
5 in our effort to gain an  
6 understanding of the history of  
7 flooding causes and the steps  
8 to be taken to reduce flood  
9 damage.

10 Our investigations to  
11 date focused on reservoir  
12 operations along with other  
13 factors. We have heard  
14 testimony from National Weather  
15 Service, the Department of  
16 Environmental Protection and  
17 the Delaware River Basin  
18 Commission. We have heard from  
19 two citizens groups, the  
20 Delaware Riverside Conservancy  
21 and Aquatic Conservation  
22 Unlimited, and from  
23 individuals, some of who have  
24 experienced flooding over a  
25 period of more than 50 years.

1           The task force members are  
2           concerned about the role of the  
3           upstream reservoirs in flood  
4           levels in the lower Delaware  
5           River.

6                         DRBC has told us that  
7           they will be conducting an in-  
8           depth study of flooding based  
9           upon the new Delaware River  
10          Basin flood analysis model,  
11          which will evaluate selected  
12          alternative reservoir release  
13          rules to mitigate downstream  
14          flooding and evaluate alternate  
15          reservoir operating plans to  
16          assess the downstream effect of  
17          reservoir releases of different  
18          magnitudes.

19                        Unfortunately this new  
20          model will not be available  
21          until sometime in late 2008.

22                        Gary Zatkowski  
23          (phonetic) the meteorologist in  
24          charge at the National Weather  
25          Service office in Mount Holly,

1 New Jersey testified before the  
2 task force that a ten billion  
3 gallon void in each New York  
4 reservoir, or four percent of  
5 system capacity, would have  
6 decreased the flood effects  
7 downstream from 26 feet to 1.1  
8 feet during the 2005 flood.

9 The Delaware Riverside  
10 Conservancy hired Dr. Roger  
11 Ruggles an engineering  
12 professor and hydrologist at  
13 Lafayette College in Easton, PA  
14 to analyze reservoir management  
15 policies. According to the  
16 Conservancy Dr. Ruggles  
17 concluded that 20 percent  
18 safety voids the reservoirs  
19 would have reduced the flood  
20 crest at Belvidere by six feet  
21 during the 2006 flood.

22 Until more definitive  
23 studies are completed, task  
24 force members cannot ignore the  
25 testimony of experts who have

1           acknowledge the substantial  
2           beneficial downstream impacts,  
3           of year-round reservoir  
4           releases and mandatory safety  
5           voids.

6                           Therefore the task force  
7           voted unanimously on September  
8           25th, 2007 to request that the  
9           Commonwealth express its  
10          support to the Delaware River  
11          Basin Commission for the  
12          interim policy proposal for  
13          year-round reservoir releases  
14          and mandatory safety voids.  
15          Sincerely, Bucks County  
16          Delaware River Flood Task  
17          Force, signed by John Berg,  
18          Chairman.

19                          In addition I was given  
20          another today from the County  
21          Commissioners and they also  
22          asked me to read this.

23                          Dear Governor Rendell,  
24          Board of Commissioners of Bucks  
25          County empanelled the Bucks

1 County Delaware River Flood  
2 Task Force last May, comprised  
3 of representatives from the 17  
4 riverfront municipalities in  
5 the County. The task force has  
6 been meeting to determine what  
7 can be done to reduce flood  
8 damages in Bucks County.  
9 Yesterday the task force voted  
10 unanimously to send the  
11 attached letter to you  
12 regarding mandatory reservoir  
13 levels and voids. Members of  
14 the task force will be present  
15 at the Delaware River Basin  
16 Commission meeting today to  
17 present the position of the  
18 task force. The County  
19 Commissioners support the  
20 recommendation of the task  
21 force and urge you and your  
22 representatives to express  
23 support to the Delaware River  
24 Basin Commission for an interim  
25 mandating year-round reservoir

1 releases and mandatory safety  
2 voids. This was also signed by  
3 the three Bucks County  
4 Commissioners.

5 CHAIR:

6 I have a question. With  
7 regard to Dr. Ruggles' report,  
8 is that the report that Elaine  
9 referred to that has not been  
10 shared with us yet?

11 MR. BURGESS:

12 As it says in the  
13 letter, it was reported by the  
14 Conservancy to us.

15 MR. ZIMMERMAN:

16 There was a press  
17 release.

18 CHAIR:

19 Oh, I know there was a  
20 press release. The  
21 science ---.

22 MR. ZIMMERMAN:

23 The attorney who was  
24 here before ---.

25 CHAIR:

1                   Yeah, is that the one he  
2                   was referring to?

3                   MR. ZIMMERMAN:

4                   That's the one he was  
5                   referring to.

6                   CHAIR:

7                   Okay. That's what I'm  
8                   just trying to determine. We  
9                   asked for it when we saw the  
10                  press release and haven't been  
11                  able to receive it. It can't  
12                  really help us if we don't have  
13                  it.

14                  MR. ZIMMERMAN:

15                  I agree.

16                  MS. NOBLE:

17                  Cathy, I didn't mention  
18                  that report. My mentioning of  
19                  the report to support safety  
20                  was the water service.

21                  CHAIR:

22                  Okay. Yeah, you  
23                  mentioned it at another  
24                  hearing, and I thought we were  
25                  going to get it. Put it in the



1 record. Okay. Thank you.  
2 Next? Do we have any more  
3 signed up?

4 MS. BUSH:

5 Yes, we do. Jim Serio.

6 MR. SERIO:

7 Thank you. My name is  
8 Jim Serio. I'm with Delaware  
9 River Foundation and a member  
10 of the Conservation Coalition,  
11 and we have been involved with  
12 a lot of the OASIS and DSS  
13 modeling of the basin for  
14 several years. I have three  
15 points I'd like to make.

16 First, right now, we  
17 have seen Revision 7 under many  
18 different conditions, flooding  
19 and near drought conditions and  
20 have studied it extensively.  
21 We have learned what Rev. 7 and  
22 Rev. 9 do well and what the  
23 shortcomings of those revisions  
24 are. We now have an  
25 opportunity to move forward and

1 gain in our understanding of  
2 the Delaware River.

3 By implementing revised  
4 FFMP on an interim basis while  
5 a more complete evaluation is  
6 performed, we can evaluate the  
7 benefits and associated  
8 problems that are bound to  
9 arise in any new plan.

10 The original FFMP has  
11 been extensively studied and  
12 changes to the FFMP, the  
13 revised FFMP, are relatively  
14 minor. Understanding that any  
15 new plan should be viewed as a  
16 living document, approving the  
17 revised FFMP on an interim  
18 basis is the best option at  
19 this time, and I applaud the  
20 Decree Parties' decision to  
21 move forward.

22 Secondly, we, too, have  
23 been frustrated with the  
24 inability to review in advance  
25 much of the material that we've

1           seen today, but most  
2           importantly once the FFMP is  
3           published I've been told that  
4           the model will be --- current  
5           model of OASIS will be made  
6           available to parties, and that  
7           we'll be able to then use that  
8           to do some modeling in the  
9           future.

10                         Anyone interested in  
11           helping to do some of that  
12           modeling we are more than happy  
13           to try and include ideas and  
14           anything else that comes  
15           forward.

16                         And lastly I think  
17           sooner than later we need to  
18           have an examination of the  
19           Montague target and try to  
20           incorporate a seven-day  
21           average, and I have a couple of  
22           graphs that I'll include in the  
23           record, that just show the yo-  
24           yo effect of Montague on  
25           Cannonsville reservoir and the

1 West Branch of the Delaware.  
2 Basically it goes up and down  
3 in a very unnatural way, and  
4 simply averaging it over seven  
5 days would even that out. It  
6 would be a wonderful asset to  
7 the program. Thank you.

8 CHAIR:

9 Thank you.

10 MS. BUSHY:

11 Val Sigstedt. Val?

12 MR. SIGSTEDT:

13 I'm Val Sigstedt. I  
14 come from Point Pleasant. I've  
15 been doing these meetings for  
16 about 25 years, ever since we  
17 had an argument about a  
18 diversion down at Point  
19 Pleasant, which we lost, but  
20 then they turned out not to  
21 want the water.

22 I think I share a  
23 general feeling of unreality in  
24 this room. We came here with  
25 the idea of discussing a plan,

1           which had already been decided  
2           about, and Tracy said it best  
3           for me.

4                        I don't know what to say  
5           because we're talking about a  
6           decrepit water system. This  
7           system is in tragically need of  
8           restoration. It's as if the  
9           fact it flooded didn't even  
10          matter. It's as if you could  
11          have a big reservoir over top  
12          of somebody's house with, say,  
13          six kids in it, and you had no  
14          responsibility for what  
15          happened with that water.

16                       Flood water is like ---  
17          I guess it's said, floods are  
18          water whose nature has been  
19          ignored or mishandled. Floods  
20          are water in rebellion. It's  
21          no wonder the people don't want  
22          to deal with floods because  
23          that's not good bureaucratic  
24          stuff. That's floods ---  
25          that's water that's gotten away

1 from all of our bureaucracies  
2 and that's what's happened.

3 We've had three floods  
4 in 21 months, and nobody does  
5 anything about it. Nobody's  
6 responsible, but people could  
7 die and they did.

8 We have global warming  
9 coming in. What's that mean?  
10 Global warming is not a myth.  
11 At least it's not according to  
12 the person in charge of the New  
13 York City water system, Emily  
14 Lloyd.

15 Emily Lloyd said this.  
16 Emily Lloyd realizes that  
17 climate change is changing  
18 everything about water  
19 delivery. In a New York Times  
20 article, 8/29/07, telling of an  
21 awesome flooding event in  
22 Queens, she said, quote, water  
23 systems are the canary in the  
24 coal mine when it comes to  
25 global warming. Wow. Somebody

1           said the terrible word, global  
2           warming.

3                         In her answer to the  
4           devastating audit of the  
5           Delaware Aqueduct by the New  
6           York Comptroller --- has  
7           anybody read that? Am I crazy  
8           about this? I read a 19-page  
9           serious study and audit of New  
10          York City's water supply  
11          system, the tunnel that leads  
12          from the Catskills and --- have  
13          you read it?

14                         MR. WARREN:

15                         I have read it.

16                         MR. SIGSTEDT:

17                         Have you read it? Did  
18          you read it? Did you read it?  
19          Did you read it?

20                         CHAIR:

21                         I that's enough.

22                         MR. SIGSTEDT:

23                         I'm going to ask  
24          everybody. Have you read it?

25                         UNIDENTIFIED SPEAKER:

1 I've only read the  
2 praecipe.

3 MR. SIGSTEDT:

4 Have you read it?

5 GENERAL SEMONITE:

6 I have not.

7 MR. SIGSTEDT:

8 I'm sorry. I didn't  
9 mean that to be ---. I'm very  
10 sorry, sir. When the New York  
11 audit says that there are 7,000  
12 lineal feet of wreckage in the  
13 tunnel ready to fall apart and  
14 they're afraid that the tunnel  
15 will rot away, and they can't  
16 take more than 600-odd million  
17 gallons of water instead of the  
18 800 that they're entitled to,  
19 no one has ever drawn 800 mgd  
20 down that tunnel for the last  
21 ten years according to that  
22 audit.

23 What's the 800 mgd  
24 doing? Why do they have it?  
25 Do they --- did we just give it



1           ---? Did the Supreme Court  
2           just give it to them to sell, a  
3           business deal?

4                         In her answer to the  
5           devastating audit of the  
6           Delaware Aqueduct by New York  
7           City (sic) Comptroller,  
8           Commissioner Lloyd said, quote,  
9           the plan for the repair of the  
10          Rondout West Branch Tunnel,  
11          RVWBT, portion of the Delaware  
12          Aqueduct is a priority focus on  
13          the larger study, *my italics*,  
14          aimed at diversifying New  
15          York's water supply. Cheers.

16                        The work of the study is  
17          a critical part of the repair  
18          process because we will need to  
19          close a piece of the aqueduct  
20          for a time --- well, the study  
21          says it could be as much as a  
22          decade --- in order to repair  
23          it, in the context of global  
24          climate change. She said it  
25          twice. She means it. She

1 thinks about global climate  
2 change. Global climate change  
3 means serious weather. I'll  
4 quote something else.

5 It's both critical and  
6 prudent that our approach be  
7 cost-effective in the long as  
8 well as the short term. Cities  
9 around the world are learning  
10 from other resources as well as  
11 our own as we carry on our  
12 planning.

13 Honest to gosh, she's  
14 thinking about what to do about  
15 all of this. I swear she must  
16 be above the pay grade of the  
17 DRBC to be able to think about  
18 flooding or water. All you have  
19 to do is just say, pour the  
20 water down, take all you want  
21 and that's the whole job.  
22 Everything else is sort of  
23 catch, pull. Okay.

24 On August 30th, 2007 in  
25 a press release, this was said,

1 a NASA study predicts more  
2 severe storms with global  
3 warming. NASA scientists have  
4 developed a new climate model  
5 that indicates that the most  
6 violent severe storms and  
7 tornadoes may become more  
8 common as earth's climate  
9 warms. The model was developed  
10 at NASA's Goddard Institute for  
11 space studies under the  
12 leadership of climatologist Jim  
13 Hanson who lives in  
14 Kintnersville, PA on the  
15 Delaware.

16 The new study was  
17 published on August 17th in the  
18 American Geophysical Union's  
19 Geophysical Research Letters.  
20 It predicts that in a warmer  
21 climate stronger and more  
22 severe storms can be expected,  
23 though fewer storms overall.  
24 That sounds like a flashy  
25 system. That's flashy.

1                   Quote --- and this is  
2                   us. The central and eastern  
3                   areas of the United States are  
4                   especially prone to severe  
5                   storms and thunderstorms that  
6                   arise when strong updrafts  
7                   combine with horizontal winds  
8                   that becomes stronger at higher  
9                   altitudes, off quote.

10                   That's a description of  
11                   a super cell. That's how they  
12                   form. It's also how tornados  
13                   form. There's a sweep up like  
14                   this and they meet the big  
15                   winds blowing up in here, and  
16                   they meet like a rolling pin  
17                   and they turn into a great big  
18                   rotating storm called a super  
19                   cell. There's a little valley  
20                   right below the Cannonsville  
21                   reservoir that almost got  
22                   drowned to pieces by one of  
23                   those. Well, if one of them  
24                   goes up above it's going to  
25                   breach one of those dams

1           nobody's going to be blamed.  
2           Nobody's at fault. Nobody's  
3           going to pay for it. It's  
4           going to be Katrina-ville all  
5           over again and a lot of people  
6           are going to die for nothing.

7                           CHAIR:

8                           Please sum up.

9                           MR. SIGSTEDT:

10                          I'll finish it up, yeah.  
11           The solution is reasonable and  
12           do-able, return to Delaware  
13           head waters to its river, and  
14           find a safe source for water  
15           for New York City closer to  
16           home. All it takes is  
17           political leadership and the  
18           humility to say something  
19           doesn't work forever.

20                          First decide there's a  
21           problem and then that there's a  
22           solution. Convene a blue-  
23           ribbon panel drawn from both  
24           watersheds of the Delaware to  
25           determine what form a buy-out

1 takes, a long term lease of the  
2 reservoirs, or an outright  
3 sale, agree to provide New York  
4 with Delaware water while the  
5 changeover takes place, for it  
6 to close down on a date  
7 certain.

8 Set in motion both  
9 immediate and long range  
10 hydrologic plans for flood  
11 mitigation and dam safety using  
12 the federal presence on the  
13 DRBC to get expertise and  
14 federal funding for structural  
15 remodeling of the dams.

16 Create a permanent  
17 Delaware watershed committee,  
18 with on a voice on the DRBC  
19 like the City of New York had,  
20 and restructure the DRBC to be  
21 able to manage and oversee  
22 these new systems with their  
23 water science as a bioregion  
24 for the river running through.  
25 Let's make water peace along

1 the river and save the  
2 Delaware.

3 CHAIR:

4 Thank you.

5 MS. BUSH:

6 Dinah Rush?

7 MS. RUSH:

8 I'm Dinah Rush and I'm  
9 the president of the Delaware  
10 Riverside Conservancy, and I  
11 must say we had an extremely  
12 long day and we really feel  
13 that we've been stressed, and  
14 obviously you've all been  
15 stressed, but we've had a long  
16 time here to have to wait for  
17 our turn to present today. So  
18 I'm hoping I still have a few  
19 brain cells left. Okay.

20 We've all been through  
21 three major floods. Most of us  
22 here today, of course, are  
23 flood victims, and I was just  
24 wondering how many of you on  
25 the Commission have been

1 flooded? Anyone? No. Okay.  
2 So that makes it a different  
3 entity. When you haven't  
4 actually experienced a flood  
5 it's really difficult to  
6 understand what it's like to  
7 actually go through not one, or  
8 two, but three.

9 I was born and raised on  
10 the river. I've lived there  
11 more than 50 years, and we've  
12 never experienced flooding  
13 three in a row like we've had.  
14 Some thing's changed,  
15 something's different and when  
16 we read your documents and  
17 information you provide for us  
18 on the reservoirs, we can see  
19 that because the reservoirs in  
20 different capacities were full  
21 at the time, we got flooded.

22 This was our home before  
23 the flood and this is after the  
24 second flood. We to re-do  
25 things, and this is the river



1           running through our living  
2           room. This is our living room  
3           after the second flood. This  
4           is my mom's bedroom, the first  
5           flood. She was 86 years old,  
6           and here's her sneakers and her  
7           Tums floating around after the  
8           flood left the debris there.

9                         We tried to fix the  
10           house up for her. We fixed the  
11           kitchen for her because she's  
12           handicapped. She was blind and  
13           couldn't walk, and she never  
14           got to use the kitchen because  
15           she died between the second and  
16           the third flood. And our  
17           kitchen died with it, our whole  
18           house died. Three times we had  
19           to fix it up.

20                        We've never been able to  
21           actually go back there and live  
22           there. But we have --- our  
23           research has shown that the  
24           difference between the first  
25           flood and having no floods was

1           the difference with the  
2           increased capacity in the  
3           reservoirs.

4                   And our hydrologists  
5           have shown that it made six  
6           feet difference. Six feet of  
7           water is a tremendous amount of  
8           water. That's the difference  
9           between minor flooding and  
10          three federal disasters in a  
11          row, three federal disasters in  
12          a row.

13                   In 1996 the water came  
14          in and ice froze, and we had  
15          ice packing in an area and the  
16          ice dammed up and we had a  
17          minor flood that only came up  
18          to about our windowsill. The  
19          last three flood came  
20          increasingly higher.

21                   See, this was the first  
22          floor. The water only came up  
23          halfway on our sliding glass  
24          door. The last two floods were  
25          up here above the windows.

1 This means that it hit the  
2 ceiling. That's the difference  
3 between six feet. From here to  
4 here is six feet of damage.

5 Not only does it just  
6 damage here, but that causes an  
7 incredible amounts of, millions  
8 of dollars worth of, damages  
9 downstream in houses that  
10 normally wouldn't even have  
11 been touched. In the 1996 ice  
12 dam flood, they never got wet.

13 So the problem is we  
14 were having less water coming  
15 at us and for less duration.  
16 These floods took days to go to  
17 --- to recede. They soaked  
18 into everything. There was  
19 nothing that was salvageable  
20 afterwards.

21 So what we need you to  
22 do is put yourself in our  
23 position. Put yourself in our  
24 shoes and think about the  
25 simplest common sense thing is

1           just to reduce the water in  
2           those reservoirs.

3                         We know that there's  
4           many things that contribute to  
5           flooding. We know that it's  
6           global warming,  
7           overdevelopment, all those type  
8           of things, impervious surfaces,  
9           all those things are components  
10          of flooding. But the one  
11          component of flooding that we  
12          can change right now and have  
13          an immediate effect is lowering  
14          those reservoirs, and we  
15          implore you to do that.

16                        There's many of us.  
17          There's 400 or so family,  
18          friends, members up and down  
19          the river from New York all the  
20          way down to Trenton and down  
21          into Delaware that have signed  
22          those petitions that you saw  
23          here. Thousands of people  
24          agree with this simple solution  
25          that we can do something about

1           it now, and so we implore you  
2           to please consider that as one  
3           of your options.

4                     Thank you very much.

5                     MS. BUSH:

6                     I have two more cards.  
7           I'm sorry, three. And I don't  
8           know whether there are other  
9           folks who have not handed me  
10          anything. If you want to  
11          speak, let me know.

12                    So the next is Tim  
13          Pryor.

14                    MR. PRYOR:

15                    Good evening, everyone.  
16          Thank you very much for taking  
17          your time today to be here.  
18          I'm Tim Pryor. I'm a member of  
19          the American Society of  
20          Mechanical Engineers. I'm also  
21          a member of the Residents  
22          Against Flooding Trends in  
23          Lower Makefield, Pennsylvania.

24                    Fortunately for me I was  
25          not flooded in the last three

1 floods, but my neighbors were  
2 and as a technical engineer  
3 interested in the science of  
4 modeling, it's been my goal to  
5 assist my neighbors and the  
6 community to better understand  
7 reports that are generated by  
8 the National Weather Service  
9 and DRBC so that I can explain  
10 to them or try to explain to  
11 them what's going on.

12 After the third flood I  
13 did a presentation that I  
14 borrowed from the National  
15 Weather Service, and I tried to  
16 explain to the township that it  
17 was really not the rain, and it  
18 wasn't just about the  
19 reservoirs.

20 And the question is, how  
21 can we make a difference? I  
22 fully support the comprehensive  
23 modeling that the DRBC has  
24 commissioned and the  
25 reassessment process. I think

1           those are outstanding things.  
2           I have a graduate degree in  
3           systems engineering. I've done  
4           a lot of modeling work  
5           throughout my career, and I  
6           understand that doing a  
7           comprehensive flood and flow  
8           model of the basin is not a  
9           trivial task. It's not a two-  
10          week thing. I question whether  
11          it's a two-year thing, but  
12          that's okay. I'll reserve  
13          comment. I'm glad we're doing  
14          this.

15                         I'd like to thank Mr.  
16          Joe DiGiuri (phonetic) who was  
17          here earlier. He was very  
18          helpful. I'm a mechanical  
19          engineer and not a civil  
20          engineer, and I don't have a  
21          lot of experience specifically  
22          in open channel flow, but I  
23          have 15 years of experience in  
24          closed system flow, and he's  
25          been very helpful in kind of

1           converting for the mechanical  
2           engineer, the additional  
3           requirements that we have for  
4           modeling flood.

5                       I've tried to do my own  
6           flood model. It's been  
7           reviewed by a peer group, did  
8           come back to me with  
9           suggestions on how to improve  
10          it, but fortunately for me the  
11          National Weather Service  
12          updated their September 13th  
13          report for the June 2006 flood.  
14          It actually had the kind of  
15          data that I've been asking for  
16          or at least wondering who would  
17          do it, so I've very pleased the  
18          National Weather Service put  
19          that together and then released  
20          the data all the way down to  
21          Trenton because as Scott and I  
22          are trying to educate the  
23          people of Lower Makefield on  
24          what's important, we were very  
25          grateful to have that.



1 I have one question and  
2 this is less than public  
3 comment. We tried to get off  
4 the slides quickly to get to  
5 the public comment period.  
6 There may be someone here who  
7 did the presentation can answer  
8 this. Just so I can understand  
9 FFMP. Other than the increased  
10 release rates at L1, what other  
11 things are being put into place  
12 for flood mitigation as part of  
13 FFMP?

14 MR. PAULACHOK:

15 The rule curve was  
16 lowered from the original FFMP  
17 so that L1 releases can occur  
18 now down to the 75 percent  
19 level instead of the previous  
20 80.

21 MR. MUSZYNSKI:

22 So releases in L1-a, -b,  
23 -c and a drop occurred from 80  
24 75.

25 MR. PAULACHOK:

1                   And the time window in  
2                   which that would applicable was  
3                   widened.

4                   MR. PRYOR:

5                   Okay. And only because  
6                   that's the first time I had  
7                   seen it. I was trying to get a  
8                   hold on evaluating that.

9                   The second question I  
10                  have is more for the National  
11                  Weather Service, but it's also  
12                  for DRBC. DRBC actually asked  
13                  the National Weather Service to  
14                  commission that study for the  
15                  June 2006 flooding, and there  
16                  were void volumes chosen in  
17                  that model. There was the no  
18                  reservoir case, the hundred  
19                  percent no spill case and then  
20                  by my calculations like about a  
21                  one percent, a two percent, and  
22                  a 4.25 percent void scenarios  
23                  evaluated in that model. The  
24                  question is, why did they  
25                  choose a five percent void as

1           the maximum and secondly, can  
2           we get that model rerun for 10,  
3           20, 30 percent voids? Because  
4           by my elementary calculations a  
5           void of something greater than  
6           five percent but maybe less  
7           than 20 percent can achieve  
8           almost the same levels of  
9           protection at, say, Trenton.  
10          1.6 was the no-spill scenario;  
11          one foot was the five percent  
12          void scenario. The question is,  
13          if we go to something more than  
14          five percent void and less than  
15          20 can we achieve one and a  
16          half foot reduction? So that's  
17          it.

18                   I want to thank everyone  
19                   here for coming and supporting  
20                   these efforts and for the  
21                   Commission for taking the time  
22                   hear us all out. Thank you  
23                   very much.

24                   CHAIR:

25                   Thank you. Does anybody

1           here know the answer to how  
2           they selected the scenarios?  
3           It was five billion --- a  
4           billion gallons.

5                     MR. MUSZYNSKI:

6                     Yeah, 2.5, 5, and 10.

7                     MR. PAULACHOK:

8                     I don't know. My  
9           assumption is that it was at  
10          the request of the Commission,  
11          but I could be wrong.

12                    CHAIR:

13                    Well, I think it had to  
14          do the original April 2005  
15          study had those --- I think  
16          it's was because it really  
17          wasn't any difference. Like I  
18          said, sometimes you get a  
19          difference. I think they were  
20          in the same criteria, but I  
21          don't know how they selected  
22          the first one.

23                    MR. MUSZYNSKI:

24                    I'd have to go back then  
25          and check.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. PRYOR:

Thank you very much. I guess, can the DRBC ask for that from the National Weather Service?

CHAIR:

Just so I understand.

MR. PRYOR:

Okay.

CHAIR:

I thought the ten billion gallons. If you assume that's from each reservoir that is about a ten percent.

MR. PRYOR:

I guess --- maybe it's my fault. Maybe I didn't understand it was per reservoir.

MR. MUSZYNSKI:

They were per reservoir.

MR. PRYOR:

I'll go back. I then withdraw my percent calculations as being

1           erroneous. I guess I'll go  
2           read it again. Yeah. It  
3           certainly didn't appear to me  
4           that there was a per reservoir  
5           calculation, that it was ---.

6                           UNIDENTIFIED SPEAKER:

7                           It wasn't per reservoir;  
8           only from two reservoirs.

9                           MR. PRYOR:

10                          Right. I understand.  
11                          And to the up side in terms of  
12                          the National Weather Service  
13                          simplified the model. I think  
14                          they kept the two reservoirs  
15                          that had the most releases, at  
16                          93 percent, so I'll accept that  
17                          as a simplification and throw  
18                          out the seven percent. I'll go  
19                          back and re-do the  
20                          calculations. Thank you.

21                          MS. BUSH:

22                          Mary Lee Delahanty?

23                          MS. DELAHANTY:

24                          Thank you. I am Mary  
25           Lee Delahanty. I'm from the

1 Glen Afton Civic Association.  
2 I was here last September when  
3 the Commission was considering  
4 the adoption of the resolution  
5 in terms of creating a goal of  
6 having more void space in  
7 certain reservoirs.

8 And I watched what has  
9 occurred with the task force  
10 and the issuance of the task  
11 force report in January of  
12 2007. I participated on behalf  
13 of the Civic Association in the  
14 meetings; we've had public  
15 comment; we've submitted  
16 written comments. And I think  
17 that the process in studying  
18 these issues is very important  
19 and I commend that.

20 I think the public is  
21 very interested in having some  
22 commitment that these three  
23 reservoirs are going to have a  
24 20 percent void, and it is true  
25 the scientific evidence should

1           be studied and that's  
2           appropriate.

3                       I was concerned at  
4           certain of the DRBC's  
5           publications, which have  
6           focused on the issue of the  
7           voids, and whether that would  
8           be useful as a tool for flood  
9           mitigation. And the DRBC  
10          stated in a document that it  
11          issued in July 2007, that  
12          sufficient discharge capacity  
13          to maintain year-round voids in  
14          each of the three New York City  
15          basin reservoirs is currently  
16          unavailable. Creating it would  
17          entail additional measures such  
18          as retro-fitting the release  
19          works of these three  
20          reservoirs.

21                      Assuming the proposed  
22          voids could be maintained, New  
23          York City would need to  
24          evaluate whether its system  
25          could be managed under such



1 constraints in a manner that  
2 would not jeopardize water  
3 supply, water quality,  
4 aggravate flood problems or  
5 adversely affect the structural  
6 integrity of its dams.

7 That of course was a  
8 great concern to me and  
9 certainly to our Civic  
10 Association, because it seems  
11 as though the DRBC is saying  
12 that there would be no ability,  
13 even if it was found that these  
14 voids would have flood  
15 mitigation potential, to  
16 implement that.

17 In the report that was  
18 issued, the draft report, of  
19 the Flood Mitigation Task Force  
20 of the Delaware River Basin it  
21 was stated that there were nine  
22 flood-related deaths from these  
23 three floods and \$265 million  
24 worth of property damage. That  
25 is, of course, of great

1 concern. The flood deaths are  
2 very important to focus on, and  
3 it is a great concern that DRBC  
4 is stating, that it is unlikely  
5 that voids could be implemented  
6 at this time.

7 We are also, of course,  
8 concerned at our opportunity to  
9 receive responses back from the  
10 DRBC as to the public comment.  
11 We've tried to get more of a  
12 dialogue going. I know there  
13 has been a great concern  
14 expressed today about finding  
15 out information about something  
16 that's going to be implemented  
17 in October.

18 So I would implore the  
19 DRBC to give consideration the  
20 opportunity for some more  
21 meaningful dialogue.

22 We are, of course,  
23 concerned about drought. It  
24 seems as though the drought  
25 word is cast about with no real

1 definition or absolute  
2 scientific support.

3 We have not seen  
4 newspaper articles detailing  
5 serious problems with droughts  
6 anywhere in this region, but we  
7 have seen the nine flood deaths  
8 and the \$265 million worth of  
9 property damage to the  
10 downstream properties. The  
11 measures of buying people out  
12 when their properties already  
13 have been decreased in property  
14 value and offering what has  
15 been articulated in the blue  
16 waters program, 75 cents on the  
17 dollar is really not a fair and  
18 just solution to this flooding  
19 problem.

20 We are very concerned  
21 that the water management  
22 system that DRBC is supervising  
23 is in need of serious  
24 inspection, evaluation and  
25 modification.

1                   And we're hopeful that  
2                   the DRBC stands ready to do  
3                   whatever it is necessary to  
4                   ensure that these voids could  
5                   be effectuated since it is now  
6                   on record saying that there  
7                   isn't the possibility to do so  
8                   now even if we had the evidence  
9                   to say that the voids would be  
10                  prevent damaging flooding.  
11                  Thank you.

12                  MS. BUSH:

13                  Charles J. Liegel.

14                  MAYOR LIEGEL:

15                  It's Liegel (corrects  
16                  pronunciation).

17                  MS. BUSH:

18                  Liegel.

19                  MAYOR LIEGEL:

20                  Thank you for hearing  
21                  me. I have a school board  
22                  meeting at 7:30 and I'm now 56  
23                  miles south of where I need to  
24                  be, so I didn't bring any  
25                  papers with me. I came here

1           after my last counsel meeting  
2           because I had read about your  
3           actions here, and I come here  
4           today to thank you. And I will  
5           start by thanking you for doing  
6           a great job for New York City  
7           water system. Half my cousins  
8           still live there, so I really  
9           care about that. And doing a  
10          great job for the wildlife on  
11          the Delaware, but you're not  
12          doing such a good job for me,  
13          and I'll tell you why.

14                   I am mayor of a town,  
15                   the county seat of Warren  
16                   County, that is blessed with  
17                   not only with the Delaware  
18                   River, but also the Pequest  
19                   River that runs right through  
20                   the center of it, and the  
21                   Pophandusing Creek that runs  
22                   right on the western side,  
23                   separates us from White  
24                   Township. So when these flood  
25                   actions happen --- I've got

1 three to think about, and what  
2 happens is the Delaware rises  
3 and then the Pequest stops  
4 going into the Delaware and the  
5 Pophandusing comes down the  
6 other side of town, then it  
7 overflows that side of town.  
8 And then as the Pequest rises  
9 the storm drains fill up and  
10 then my business district  
11 starts to flood, three times.

12 The last time the  
13 business district flooded like  
14 that and the residents down  
15 there was '55. In '55 I was a  
16 five year old kid getting  
17 evacuated out of Frenchtown,  
18 New Jersey by my grandfather,  
19 so I remember that flood and  
20 there was two hurricanes  
21 converging on us at one time.

22 But when we get nine  
23 inches of rain in 24 hours and  
24 the old timers sit down by the  
25 Delaware River with me and

1           they're watching it come up and  
2           they're going, wow, it's coming  
3           up just like somebody turned on  
4           the spigot. And then it drops  
5           just as quick when the  
6           reservoirs stop releasing.  
7           When I'm evacuating people out  
8           of the Depue Street, my lowest  
9           street in town right by the  
10          Delaware River --- and Paul  
11          Canaveri (phonetic) calls me  
12          from PP&L and says, just want  
13          to let you know we're leasing  
14          from our reservoir, and the  
15          river keeps rising, and rising  
16          and rising just like somebody  
17          turned on the spigot, it  
18          doesn't take a genius to  
19          realize that these reservoirs  
20          releasing is having some effect  
21          on our flooding.

22                         Now, those of you who  
23                         don't live in our town or live  
24                         in Harmony, the old timers know  
25                         it. They can see it, you know.

1           It just happens too quick. It  
2           doesn't act like any other  
3           flood, not even the flood of  
4           '55.

5                         And that's just PPL  
6           telling you from Lake  
7           Wallenpaupack that they're  
8           releasing. Now, what your  
9           three reservoir are doing on  
10          top of what Lake Wallenpaupack  
11          is doing to us even if it  
12          affects it by six inches, I  
13          have people calling who are far  
14          enough up the street where just  
15          their basements are flooding,  
16          but it's six inches from their  
17          first floor, to where they're  
18          going to have real property  
19          damage and they're going, it  
20          stopped raining two days ago  
21          and the river's still rising.  
22          What's going on?

23                         So I think if you folks  
24          sitting on this Commission  
25          don't feel that the reservoirs



1 releasing during a flood is  
2 affecting the levels, then  
3 you're probably the only people  
4 in this room who think that.  
5 If you don't like this Dr.  
6 Ruggles study or you don't like  
7 the NOAA study ---.

8 CHAIR:

9 We didn't say we didn't  
10 like it. We never saw it.

11 MAYOR LIEGEL:

12 All right. All right.  
13 But before you implement  
14 something like this wouldn't it  
15 be good to see the Ruggles  
16 study, to look at the NOAA  
17 study, or look at one of these  
18 studies that actually supports  
19 that the reservoirs releasing  
20 is affecting the flooding?  
21 Anyhow, congratulations on the  
22 rest of it, but it's something  
23 that you missed the boat on.  
24 Thank you.

25 CHAIR:

1                   You're welcome.

2                   MR. PRYOR:

3                   I'd like to just revise  
4 my comment.

5                   MS. BUSH:

6                   There are other  
7 speakers.

8                   MR. SCANAPICO:

9                   I'm Tom Scanapico. I  
10 live in New Hope. My house has  
11 been flooded three times, but  
12 it was not flooded on April  
13 16th, 2007. And there's a lot  
14 of data floating around from  
15 both sides, but I'm told that  
16 that was a higher, a very large  
17 rain event, even larger than  
18 the three times when my house  
19 did flood. And I'm told that  
20 in that April event there was  
21 capacity in the reservoirs, and  
22 that that could potentially  
23 make a difference. I don't  
24 know if that's a fact, but I  
25 really wish that the DRBC would

1 address that. Okay?

2 People have been saying  
3 that gaps in reservoirs make a  
4 big difference and could stop  
5 the damage. Where is a  
6 legitimate response from an  
7 agency that I would like to  
8 trust, okay, to answer that?  
9 And how come I can't see it. I  
10 mean, they talk about floods  
11 being man made because these  
12 gaps don't exist and the  
13 reservoirs aren't being  
14 properly managed.

15 And then a handout this  
16 morning says, you know, let me  
17 correct the record. I think I  
18 probably have it here. Let me  
19 correct the record of, you  
20 know, misinformation. I think  
21 I have it here. Yes, a little  
22 handout, setting the record  
23 straight, and statement number  
24 one, you know, three floods  
25 that took place along main

1 stream of the Delaware were  
2 man-made and not as a result of  
3 hundred-year events or a  
4 perfect storm.

5 And instead of  
6 addressing the issue of the  
7 gaps in the reservoirs so that  
8 someone like me can understand  
9 what the impact is, you say,  
10 the National Weather Service  
11 has repeatedly said, excessive  
12 rainfall was the primary cause  
13 of the three floods. Thank you  
14 very much.

15 I mean, we all know that  
16 the rain is causing the  
17 problem. The real issue is  
18 would a 20 percent gap stop the  
19 damage or lower the damage?  
20 Why don't you address that so  
21 that people can get some  
22 confidence in your agency? Why  
23 would you --- to release a  
24 report instead of the day of,  
25 the day before, why don't you

1           let people review it so they  
2           get some confidence in your  
3           agency? Why don't you have a  
4           meeting room that can  
5           accommodate people? Okay. And  
6           why run a normal agenda with  
7           minor issues when all these  
8           people have taken off days from  
9           work, because they're  
10          interested in this issue, and  
11          yet you're treating this like a  
12          political campaign and you're  
13          making fun of the fact that you  
14          haven't gotten a hydrologist's  
15          report. I haven't gotten it  
16          either. I don't know if it's  
17          good, bad or otherwise, but  
18          where's your report? You're  
19          the agency.

20                        Why don't you have an  
21                        opinion of what the impact  
22                        would be of having a 20 percent  
23                        gap in the reservoirs? Why are  
24                        we looking to, you know,  
25                        citizen groups that go and fund

1           these things and try to get us  
2           answers? I would like the  
3           answers from the DRBC and not,  
4           you know, ridiculous comments  
5           that rain causes flooding. We  
6           all know that much. We'd like  
7           a little bit of help  
8           understanding more than that.

9                           CHAIR:

10                   I do want to respond to  
11                   that, because we have put out  
12                   reports on numerous occasions.  
13                   On numerous occasions we've got  
14                   information on the web site.  
15                   There were two reports done by  
16                   the chief hydrologist over a  
17                   year ago including readings  
18                   immediately after the events.  
19                   We consolidated them into  
20                   reports here and published  
21                   those reports and information  
22                   was put on line. No one wants  
23                   our answer, because we thought  
24                   it wouldn't have the effect of  
25                   reducing ---.

1                   MR. SCANAPICO:

2                   May I ---?

3                   CHAIR:

4                   Excuse me. I don't want  
5                   to debate it.

6                   MR. SCANAPICO:

7                   I don't want to debate  
8                   it either.

9                   CHAIR:

10                  I'm just going to tell  
11                  you, you're having trouble ---  
12                  we're trying to communicate  
13                  today because we see still a  
14                  lack of understanding and all  
15                  of our ---.

16                  UNIDENTIFIED SPEAKER:

17                  Of what?

18                  CHAIR:

19                  All of our information  
20                  does now show a major impact.  
21                  If you have information that  
22                  does we'd like to see it  
23                  because as Tim Pryor said, he's  
24                  been analyzing the data, which  
25                  he knows we have data because

1 he's used it, that the  
2 information we have is up to  
3 one and a half feet is the  
4 maximum, talking about down  
5 here, up to four feet right  
6 below the reservoirs is the  
7 data we have that we've been  
8 able to run. It's complicated  
9 to run it, but we have for the  
10 two events.

11 MR. SCANAPICO:

12 I have the same ---  
13 thank you very much. You know,  
14 in the press you were quoted as  
15 saying it has an impact of  
16 inches. I don't have the exact  
17 quote.

18 CHAIR:

19 It's the April 2005 ---.

20 MR. SCANAPICO:

21 But that's what I read,  
22 and I'm just trying to find out  
23 what the real answer is, and  
24 the exists.

25 CHAIR:



1                   It does exist. I'm not  
2                   an engineer, so I can't guess  
3                   it. I can't make it up. I  
4                   simply see what's in the  
5                   reports and report what it  
6                   says.

7                   MR. SCANAPICO:

8                   Thank you very much. I  
9                   really appreciate even hearing  
10                  that and I'd love to see it.  
11                  Okay? And I'm not a  
12                  hydrologist, I probably won't  
13                  get all of it, but if the  
14                  impact is a foot and a half  
15                  down here, and whatever you  
16                  said, three feet up --- further  
17                  north ---

18                  CHAIR:

19                  Two to four feet in New  
20                  York State.

21                  MR. SCANAPICO:

22                  That's significant to  
23                  know. I think people ought to  
24                  be able to analyze that and you  
25                  ought to be able to analyze

1           their report and the science  
2           ought to speak for itself. I  
3           mean, it shouldn't be, you  
4           know, I mean, in order to be  
5           able to prove out one way or  
6           the other.

7                         But there is an impact.  
8           I mean, I know my house has six  
9           feet in it and a lot of my  
10          neighbors had significant  
11          water. I'd say there's a  
12          tremendous difference in damage  
13          a foot and a half of water down  
14          in New Hope, because I had a  
15          whole parking lot lift up. The  
16          asphalt floated away from a  
17          parking lot. Okay? It only  
18          happens when the water really  
19          gets up there, so that last  
20          foot and a half, you know,  
21          really makes a difference, and  
22          I'll bet three feet makes a  
23          huge difference up north. We  
24          all agree that it does have an  
25          impact and the voids could

1 help. If you need more  
2 reservoirs and more capacities,  
3 can't we build another  
4 reservoir? Can't we flood an  
5 empty basin somewhere?

6 CHAIR:

7 And these are the right  
8 questions. This is exactly the  
9 discussion we're going to have.  
10 The fact is we don't have all  
11 the information, but we're  
12 looking at two to four feet in  
13 the model, up in the first 20  
14 miles before the reservoirs,  
15 about and if you consider that  
16 27 or 29 is the flood crest, so  
17 you have to decide how  
18 significant is that? Everyone  
19 may have a different sense of  
20 is that medium, small or big,  
21 but it is what it is.

22 It's two to four feet  
23 and what I've tried to say, I  
24 said that, is the if we can get  
25 to the four feet without

1           harming somebody else seriously  
2           then we'll absolutely want to  
3           do it. That's why we need to  
4           figure this out.

5                         And if we can even get a  
6           half a foot someplace out of  
7           something, somewhere then we  
8           want to have that half foot.  
9           Absolutely we want to have it,  
10          as long as we're not harming  
11          somebody else, and the question  
12          is, are the reservoirs safe? We  
13          are definitely --- it's one of  
14          the things in the state  
15          legislature and the Governor is  
16          willing to look --- the  
17          Governor of Pennsylvania is  
18          willing to look at reservoirs  
19          in Pennsylvania where we could  
20          possibly expand. And that will  
21          help us if we could find a  
22          place we could, like F.E.  
23          Walter, that has flood control.  
24          It could be expanded. That  
25          would be much more direct for

1           Pennsylvania for the lower  
2           basin, because it's closer to  
3           us and so the impact would be  
4           bigger. So we want to look at  
5           that, too. We need to look at  
6           all these things and we need to  
7           do all of them that are  
8           beneficial, and if we need  
9           money and resources, then we  
10          need to make a campaign to get  
11          the money and resources.

12                           MR. SCANAPICO:

13           I thank you for that  
14          response. That was a very  
15          intelligent response, and it's  
16          the kind of response that I  
17          hadn't had the benefit of  
18          hearing in this dialogue. And  
19          I want to tell you is the thing  
20          --- the quotes I've see in the  
21          newspaper, okay ---. And I  
22          don't mean just the small  
23          newspapers, I mean, you know,  
24          the quotes are there and again  
25          they say, the impact is just

1 inches. Okay? And materials  
2 that are handed out like were  
3 handing out today, this is not  
4 a substantive answer. I think  
5 you would serve yourself a lot  
6 better by having substantive  
7 answers, of the type that you  
8 just articulated. This kind of  
9 material is not helping the  
10 DRBC.

11 CHAIR:

12 If you look carefully at  
13 that material we're trying to  
14 address things, but we seem to  
15 be talking past each other. So  
16 that is the concern. One of the  
17 things is that this is about  
18 rain. And the difference is if  
19 you start with the premise it's  
20 about the voids, then you  
21 explain everything with the  
22 voids. But it's about the rain  
23 and the way the rain came is an  
24 equally-good explanation and  
25 it's what we believe is the

1           cause. And it's not whether  
2           there were voids or not, but  
3           whether the ground was  
4           saturated, how much rain fell,  
5           how wide, and when those  
6           raindrops got into the stream.

7                           MR. SCANAPICO:

8                           We know the rain is  
9                           going to come, and we know the  
10                          weather patterns globally are  
11                          changing, and we anticipate  
12                          many more heavy rains. So we  
13                          know it's about the rain, but  
14                          the question in my mind is, do  
15                          the gaps help? Do the voids  
16                          help with the problem? That's  
17                          what I want you to address. We  
18                          know it's the rain.

19                          CHAIR:

20                          Well, I have this vision  
21                          that the bathtub somehow dumps  
22                          extra water, but it can't. It  
23                          can only dump the raindrops  
24                          that were going to come down  
25                          into the stream anyway. It

1           doesn't add to the water.  If  
2           you focus on the rain, it gives  
3           you a better understanding of  
4           the hydraulics in the basin.

5                     MR. SCANAPICO:

6                     If you focus on the  
7           value of the gaps you would  
8           answer my question and maybe  
9           others.

10                    CHAIR:

11                    We've tried every way we  
12           can to explain this.

13                    UNIDENTIFIED SPEAKER:

14                    You said that Governor  
15           Rendell has plans?

16                    CHAIR:

17                    No he doesn't have plans  
18           yet.  But he's willing to  
19           consider all of these things  
20           --- to look at all 45  
21           recommendations that the flood  
22           task force and to make  
23           recommendations to him and  
24           which things to do including  
25           looking at all reservoirs in



1            Pennsylvania and doing just  
2            what we're asking New York City  
3            to do, look at what --- what  
4            could we do differently? What  
5            could we do better to provide  
6            more flood relief?

7                            UNIDENTIFIED SPEAKER:

8            I went on his web site.  
9            It doesn't say a thing on it.  
10          It addresses floods, but it  
11          doesn't address the floods on  
12          the Delaware River at all. He  
13          hasn't address that. We want  
14          to hear from him. I'd like a  
15          comment on Governor Rendell  
16          saying that he's actually  
17          interested in helping us find  
18          an answer to these floods, but  
19          we would all like to hear that.  
20          Otherwise, I think the next  
21          flood we should call it the  
22          Rendell flood, because he  
23          hasn't helped.

24                            MS. BUSH:

25            There's one more

1 comment, and that's it.

2 MR. PRYOR:

3 I would revise my  
4 request to find an explanation  
5 by the National Weather Service  
6 of the report that was  
7 presented the 13th of  
8 September. The September 13th  
9 report gives approximately a  
10 eight percent void total, 10  
11 billion gallons.

12 What I request the DRBC  
13 to do is request the National  
14 Weather Service to run that  
15 scenario for a 15 percent, a 20  
16 percent and either a 25 or 30  
17 percent scenario. It's my  
18 belief that given the modeling  
19 of the system, that we would  
20 see a right hand shift in the  
21 peak of those flows as we moved  
22 to higher and higher void  
23 volumes, and that the overall  
24 peak flows and gauge heights  
25 would approach the gauge

1 heights of the no-spill  
2 scenario under the different  
3 degrees of void percentages.

4 And that would help  
5 everyone here evaluate whether  
6 a five percent void is the best  
7 scenario in terms of  
8 controlling the reservoirs. If  
9 you go from 5 to 10 percent or  
10 from 10 to 20 percent it  
11 doesn't really have an impact.

12 You've already seen the  
13 report that between five and  
14 ten percent there's about a  
15 half a foot change. The  
16 question is we go to 20 percent  
17 you gain almost that half foot  
18 while some keep 45 percent  
19 voids in the reservoirs. So  
20 thank you.

21 CHAIR:

22 Thank you. We have some  
23 more business on the agenda.  
24 Anybody have any questions?  
25 Okay. Any questions on the

1 resolution, which is, in a  
2 nutshell, what Ken Warren told  
3 us, but that we ask staff to  
4 prepare proposed rulemaking,  
5 public dissemination to  
6 incorporate changes to the  
7 Water Code reflecting the FFMP  
8 as provided by the Decree  
9 Parties. We have a motion and  
10 second. All in favor? Aye?

11 ALL RESPOND AYE

12 CHAIR:

13 So we ask staff to start  
14 drafting proposed rulemaking.

15

16 \* \* \* \* \*

17 HEARING CONCLUDED AT 6:30 P.M.

18 \* \* \* \* \*

19

20

21

22

23

24

25