

A RESOLUTION to authorize the Executive Director to provide public notice of any agreement of the Parties to the Supreme Court Decree in *New Jersey v. New York* regarding operations of the City of New York's Delaware River Basin reservoirs and to publish for public comment and hearing proposed regulations to implement any Decree Party agreement.

WHEREAS, the 1954 U.S. Supreme Court Decree in *New Jersey v. New York* provided for, among other things, authorized diversions from the City of New York's Delaware River Basin reservoirs, compensating releases from these reservoirs and authorized diversions by the State of New Jersey;

WHEREAS, in Docket No. D-77-20 CP (Revised), and in its Water Code, the Delaware River Basin Commission (DRBC) with the unanimous consent of the Decree Parties, approved a reservoir releases program for the City's Delaware River Basin Reservoirs that included conservation releases;

WHEREAS, through revisions 2 through 9, inclusive, to Docket No. D-77-20 CP (Revised), the DRBC with the unanimous consent of the Decree Parties has from time to time on a temporary basis approved revisions to the reservoir releases program for purposes that included, among others, fisheries protection and spill mitigation;

WHEREAS, the currently effective revisions to Docket No. D-77-20 CP are scheduled to expire on September 30, 2007;

WHEREAS, the Decree Parties have been negotiating the terms of a Flexible Flow Management Plan (FFMP) that would provide a comprehensive framework for addressing multiple flow management objectives, including water supply, drought mitigation, flood mitigation, protection of the tailwaters fishery, a diverse array of habitat needs in the main stem, estuary and bay, recreational goals and salinity repulsion;

WHEREAS, between February 12 and March 1 of 2007, the DRBC published in federal and state registers and on its website notice that it would hold public hearings and accept written comments on the FFMP;

WHEREAS, in response to its notice the Commission received written and oral comments from approximately 120 agencies, organizations, elected officials and private citizens;

WHEREAS, during and following the DRBC's receipt of the public comments, the Decree Parties have continued to negotiate the terms of the FFMP;

WHEREAS, the Decree Parties have now disclosed or expect to disclose shortly the terms of the FFMP to which they have agreed;

WHEREAS, the DRBC wishes to publish the FFMP and proposed regulations implementing the FFMP and to solicit public comment as part of its rulemaking process; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Executive Director is authorized to publish the FFMP on the DRBC's website.
2. The Executive Director is authorized to publish proposed regulations to implement the FFMP on its website and in federal and state registers with accompanying notice that the DRBC will accept written comments on its proposed regulations for the period specified in the notice and will hold public hearings as set forth in the notice.

/s/ Cathy Curran Myers

Cathy Curran Myers, Chairwoman *pro tem*

/s/ Pamela M. Bush

Pamela M. Bush, Esquire, Commission Secretary

ADOPTED: September 26, 2007