

# Interim Fisheries Protection Program Approved in 2004

The upper Delaware River Basin is home to some of the finest trout fishing found anywhere in the United States. However, the well-being of this fishery depends on cold-water releases from three reservoirs built by New York City (NYC) on Delaware River tributaries and operated for public water supply.

Allocation of the waters in the upper basin is governed by a decree of the U.S. Supreme Court issued in 1954 to settle an interstate water dispute between the City and State of New York and the lower basin states. The decree parties are the four basin states (Delaware, New Jersey, New York, and Pennsylvania) and NYC. The 1954 decree allows the city to export up to 800 million gallons per day out of the Delaware Basin, establishes a minimum flow target at Montague, N.J. for the use of the lower basin states, and provides for reservoir releases to meet the target when necessary.

The 1954 decree did not establish minimum flows for fisheries protection. However, the 1961 compact creating the DRBC allows for adjustments to be made to the decree's prescribed releases and diversions, subject to the unanimous consent of the decree parties, without requiring further court approval. As a result, fishery-related negotiations among the decree parties have taken place since 1977 and various reservoir release programs for fisheries protection have been agreed to over the years.

In 2002, New York State presented a proposal to the other decree parties to revise the existing reservoir releases program to provide additional water for fishery protection. After lengthy negotiations among the decree parties and with their unanimous consent, an interim fisheries protection program extending from May 2004 through

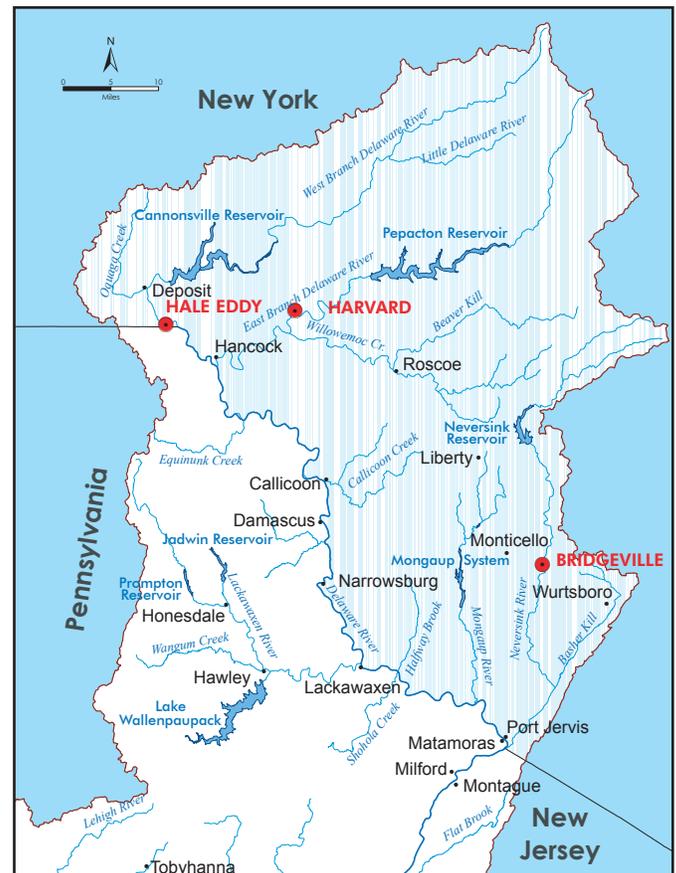
May 2007 was approved by the DRBC on April 21, 2004.

This program for the first time establishes minimum flow targets for fisheries protection below each of the NYC reservoirs during normal conditions: 225 cubic feet per second (cfs) at Hale Eddy, N.Y. below Cannonsville Reservoir, 175 cfs at Harvard, N.Y. below Pepacton Reservoir, and 115 cfs at Bridgeville, N.Y. below Neversink Reservoir. These targets were recommended by New York State Department of Environmental Conservation (NYSDEC) fisheries biologists based on a trout habitat study completed in 1983. The flow targets are proportionally reduced during various drought stages. Along with the flow targets, an expanded water bank was made available to make additional cold-water releases to attempt to limit high instream water temperatures that are harmful to trout.

The interim fisheries protection program was possible, in part, because PPL Corporation offered additional water from its Lake Wallenpaupack hydropower reservoir in northeastern Pennsylvania to be used at the commission's discretion during drought watch, warning, and emergency operations to meet minimum flow

targets. The interstate collaboration through the DRBC helped bring this Pennsylvania power company to the aid of the New York fisheries program.

Based on results of the three-year program and on further deliberations regarding the sustainability of water available to support fishery releases, the decree parties intend to develop and implement a more flexible program of reservoir releases to better address the needs of the upper basin fisheries. Up until now, the NYC Delaware Basin reservoir operating plans have been drought-focused. However, in light of the major floods on the Delaware which followed a period of nearly



This map of the upper Delaware River Basin highlights in red the location of the three minimum flow targets for fishery protection.

50 years without any widespread main stem flooding, potential flood mitigation opportunities using existing reservoirs is yet another issue under consideration by the decree parties. As deliberations continue, fishery interests must be balanced by the other competing demands on the main stem Delaware River and Delaware Bay. Also, the federal Endangered Species Act requires that river flows be managed to protect certain species such as the dwarf wedgemussel, which was recently discovered in the waters of the upper Delaware.

A number of ongoing ecological and hydrological studies by multiple public and private stakeholders are underway to provide the decree parties

and DRBC with better information to guide decision-making. For example, a study to update the 1983 NYSDEC cold-water fishery habitat study is being conducted by the U.S. Geological Survey with the assistance of the DRBC Subcommittee on Ecological Flows (SEF). The SEF is currently chaired by Colin Apse with The Nature Conservancy's Neversink River Program. Ongoing studies also are underway to better understand instream flow needs of dwarf wedgemussels and oysters.

Additional information about this program can be found on the DRBC web site at <http://www.nj.gov/drbc/Res-Fisheries.htm>.

# Upper Delaware

Scenic and Recreational River  
New York/Pennsylvania

National Park Service  
U.S. Department of the Interior

Official Map and Guide

