

A RESOLUTION reconstituting the Flow Management Technical Advisory Committee as the Regulated Flow Advisory Committee, re-defining its purpose and expanding its membership.

WHEREAS, by Resolution No. 67-4 in March of 1967, a technical Task Group was created, comprised of representatives of all the parties to the 1954 U.S. Supreme Court Decree (Decree Parties) in *New Jersey v. New York* (347 U.S. 995), the River Master, the City of Philadelphia, and the DRBC for the purposes of reevaluating the adequacy of the water supply resources of the Delaware River Basin and its service area; and

WHEREAS, in 1977, in accordance with Docket No. D-77-20, the Task Group's mandate was expanded by the Commission to include the development of drought emergency criteria, conservation measures and long-term reservoir operations planning; and

WHEREAS, the Task Group completed its work with a report entitled, *Task Group Report, DRBC Docket No. D-77-20 Appraisal of Upper Basin Reservoir Systems, Drought Emergency Criteria and Conservation Measures* (Delaware River Basin Commission, March 1979) (*Task Group Report*); and

WHEREAS, the *Task Group Report* served as a basis for continued study and recommendations contained in the Commission's Level B Study (May 1981) and for the "Good Faith" negotiations undertaken in 1979 by the Decree Parties in accordance with Resolution No. 78-20; and

WHEREAS, the technical Task Group continued to serve as the technical advisory committee to the "Good Faith" negotiators; and

WHEREAS, the work of the "Good Faith" negotiators culminated in a set of recommendations contained in the report, *Interstate Water Management Recommendations of the Parties to the U.S. Supreme Court Decree of 1954 to the Delaware River Basin Commission Pursuant to Commission Resolution 78-20* (November 1982); and

WHEREAS, by Resolution No. 83-6, the Commission determined that a continuing need existed for the technical committee that had served the "Good Faith" negotiators to advise the Commission on implementing the "Good Faith" recommendations; and

WHEREAS, by the same resolution, the Commission redesignated the technical committee the Flow Management Technical Advisory Committee; and

WHEREAS, the Commission finds that it has the need for an advisory committee of both a technical and non-technical nature to:

- advise it about the views of fishery, boating, and industrial interest groups and other resource management agencies, in addition to those of the Decree Parties,

with respect to diversions and releases from and flows regulated by the Cannonsville, Pepacton, Neversink, Merrill Creek, Blue Marsh, F.E. Walter, Beltzville and Nockamixon reservoirs, Lake Wallenpaupack and the hydropower reservoirs in the Mongaup River;

- provide a public forum for discussion and debate on flow management issues throughout the Basin;
- disseminate accurate scientific information and increase public understanding of operational and legal constraints and opportunities; and
- advise it on potential changes to the Water Code; and

WHEREAS, in order to effectuate ongoing private negotiations regarding issues related to the Decree, the Decree Parties have independently formed a Decree Work Group and have agreed among themselves that from time to time they will open a portion of their private meetings to the public for input and dialogue; now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. Reconstitution of FMTAC as RFAC. The technical advisory committee constituted initially as the technical Task Group in accordance with DRBC Reslolution No. 67-4 and DRBC Docket D-77-20, which committee later served as the technical advisory committee to the “Good Faith” negotiators and in accordance with Resolution No. 83-6 was designated the Flow Management Technical Advisory Committee (FMTAC), is hereby reconstituted as the Regulated Flow Advisory Committee (RFAC).
2. Committee Charge. The RFAC is charged with:
 - a. Advising the Commission about the views of fishery, boating, and industrial interest groups and other resource management agencies, in addition to those of the Decree Party representatives, with respect to diversions and releases from and flows regulated by the Cannonsville, Pepacton, Neversink, Merrill Creek, Blue Marsh, F.E. Walter, Beltzville and Nockamixon reservoirs, Lake Wallenpaupack and the hydropower reservoirs on the Mongaup River (“Regulated Flows”);
 - b. Providing a public forum for discussion and debate on flow management issues throughout the Basin;
 - c. Disseminating accurate scientific information and increasing the participants’ understanding of operational and legal constraints and opportunities; and
 - d. Advising the Commission with respect to potential changes to the Water Code.

3. Membership. The membership of the RFAC shall include one representative each from the Commonwealth of Pennsylvania, the City of Philadelphia, the State of New York, the City of New York, the Delaware River Master, and the U. S. Army Corps of Engineers and two representatives each from the states of Delaware and New Jersey.
4. Appointments by Executive Director. The Executive Director shall solicit from the representatives of the parties to the 1954 U.S. Supreme Court Decree in *New Jersey v. New York* (Delaware, New Jersey, Pennsylvania, New York State and New York City) the names and qualifications of the individuals they recommend for appointment to the RFAC to represent each of those entities. The Executive Director shall solicit from the Federal Commissioner of the DRBC, the River Master and the Water Commissioner of the City of Philadelphia, respectively, the names and qualifications of the individuals they recommend for appointment to the RFAC from the U.S. Army Corps of Engineers, the River Master and the City of Philadelphia. Based upon the recommendations of the Commissioners, the Executive Director shall appoint the members of the RFAC for terms to be established by the committee in its bylaws.
5. Appointment of Staff Liaison. The Executive Director of the Delaware River Basin Commission shall appoint a staff member to act as staff liaison to the RFAC.
6. Bylaws and Rules of Conduct. The RFAC shall establish its own bylaws and rules of conduct, subject to the following conditions:
 - a. The Chair shall be a representative of a Decree Party.
 - b. The RFAC shall hold a minimum of 2 meetings per year.
 - c. The RFAC shall create any subcommittees that it deems necessary, comprised of persons who have expertise in or can provide valued input regarding matters before the RFAC and who may or may not be members of the RFAC. The RFAC shall dissolve such subcommittees when it determines that they are no longer needed.
 - d. The RFAC shall report its findings and make recommendations to the Commission through its Chair.
7. Relationship with Subcommittee on Ecological Flows. The responsibilities of the Flow Management Technical Advisory Committee with respect to the Subcommittee on Ecological Flows, as set forth in Resolution No. 2003-18, shall be transferred to the RFAC.
8. Limitations on RFAC and Commission. Like all DRBC advisory committees, the RFAC shall serve a purely advisory function and shall have no authority to act on behalf of the Commission. In accordance with Section 3.3 of the *Compact*, the Commission's own authority is limited with respect to certain matters upon which the RFAC is charged with advising it. The Commission cannot re-allocate the waters of the Basin, nor can it adjust diversions, compensating releases, rights, conditions, or obligations established by the Supreme Court Decree of 1954 or the administration thereof, without the unanimous consent of the Decree Parties. The

only exception to this condition is for Commission action to meet an emergency, following a Commission declaration of a state of emergency resulting from a drought or catastrophe.

/s/ Kevin C. Donnelly
Kevin C. Donnelly, Chairman *pro tem*

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

Adopted: December 7, 2005