

Trout Unlimited Statement on the Delaware River Flows



“A river is more than an amenity, it is a treasure. It offers a necessity of life that must be rationed among those who have power over it.”

-U.S. Supreme Court Justice Oliver Wendell Holmes, 1931 Delaware River Diversion Case

Trout Unlimited (TU) is dedicated to the ecological preservation of the Upper Delaware River environment and its trout fisheries. Because of this, our organization and its New Jersey, New York, and Pennsylvania Councils *cannot* support the reservoir release schedules that are contained within the interim Flexible Flow Management Program (FFMP) due to the significant damage these releases will bring to the Delaware River’s ecosystem. In particular, under the interim releases the trout fisheries of the Upper Delaware River’s main stem will be lost due to lethal rises in water temperatures and loss of habitat. Additionally, the interim release schedule harms American shad populations and habitat, dwarf wedge mussels and other fish and wildlife as well as the recreational tourist economy of the Upper Delaware region. TU does, however, support in principle the FFMP adaptive release *concept* to address the flow management issues in the Delaware River basin.

It is well documented that there is more than enough water in the Upper Delaware River for all the Decree Parties and for healthy aquatic habitat for trout, shad, and the many other species that live in and along the Neversink, East and West branches, and Main Stem of the river. The current constraint under which the FFMP is modeled, however, is invalid, biased, and inflexible:

- New York City’s annual diversions from Neversink, Pepacton, and Cannonsville reservoirs over the past ten years have averaged 508 mgd. Yet the Delaware River Basin Commission (DRBC) has consistently required that all OASIS modeling of future scenarios consider an annual New York City diversion of 765 mgd. This means that over 290 mgd is available for ecosystem benefits downstream of the reservoirs, not the 35 mgd that the DRBC is currently modeling.
- By imposing a release schedule calculated for extreme water supply diversions (765 mgd) when the actual annual average diversions are much lower (508 mgd), the DRBC’s interim FFMP will result in far more reservoir spills and significantly higher reservoirs each year than the OASIS model currently predicts. This is wasteful and irresponsible management of the Delaware River’s water.
- New York City’s annual average diversions have been decreasing over the past 15 years, and they are not projected to increase for the foreseeable future.

Given New York City’s average diversions and the resulting additional water in the Upper Delaware River, the following changes will correct the deficiencies of the FFMP with no risk to any of the Decree Parties’ water rights and availability.

- (1) **The releases in the interim FFMP must be increased.** Higher reservoir releases from Cannonsville are needed from May to September to protect trout habitat in the lower West Branch and Main Stem Delaware River. Similarly, higher release rates are required for the Neversink and East Branch tributaries to protect against low flows and high water

temperatures. In light of the large quantity of available water that *will not* be diverted to New York City and *will* eventually find its way downstream as spillage over the dams, TU *cannot* accept any FFMP without an increase in releases from all three reservoirs. The OASIS model can substantiate this, and the DSS model verifies the considerable habitat gains for the rivers.

- (2) **More release levels and seasons are necessary in the interim FFMP.** The interim FFMP structure is very inflexible; during most summers, releases will remain in L2 more than 75 percent of the time. At a minimum, additional graduated levels need to be added to both the L1 and L2 Storage Zone. The FFMP will also benefit from additional seasons, particularly because of traditional water temperature and flow problems in mid- to late-May, early-June, and the summer period through mid-September whenever Montague flow target releases are not made.
- (3) **Weekly averaging of the Montague flow target is needed.** The wildly fluctuating releases that result from the efforts to meet Montague flow target shortages must be eliminated. These extreme daily variances create dangerous water temperature fluctuations to the biota and disrupt various forms of recreation on the rivers. Proactive directed releases must be based on a weekly average target rather than daily variances. Anticipated hydropower generation releases from the Lackawaxen and Mongaup rivers make this entirely feasible and such a weekly averaging should be instituted immediately. Using anticipated water diversions, anticipated Montague target releases, and projected hydropower releases, the Rivermaster can institute a weekly Montague release that accounts for these factors and eliminates these harmful and unnecessary daily fluctuations.
- (4) **Directed releases for the Montague flow target must be balanced from the reservoirs.** Some portion of the Montague releases should be apportioned as necessary to the East Branch and Neversink rivers when the Rivermaster requires water releases for the Montague flow target. Such an allocation in releases will provide more aquatic habitat to the three tailwaters and help avoid draining Cannonsville during dry years.
- (5) **A formal annual review of the FFMP is mandatory.** A process must be established to provide for an annual review of the FFMP to assess its performance. Consistent review, analysis, and response are needed to address any of its shortcomings and incorporate new research. Because these aquatic environments are extremely sensitive, we stress the need for the DRBC to maintain the ability to act quickly at times to avoid long-term environmental damage from loss of aquatic habitat. Any formal process to review and respond to new information or environmental conditions must include the stakeholders and not be unnecessarily hindered by the bureaucratic process.

TU recognizes the extraordinary efforts that are necessary for the equitable apportionment and management of the Upper Delaware watershed for both the DRBC and the Decree Parties. We recognize that management needs for these rivers will remain dynamic and require constant assessment. By implementing the above courses of action to correct the deficiencies of the interim FFMP, the DRBC and the Decree Parties can use their power to significantly improve the health of the Delaware River and its treasured trout fisheries—and with no risk to New York City or any other Decree Party's water supplies or rights.