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# THE DELAWARE RIVER BASIN

## A HOME RULE PROGRAM

### FOR THE DEVELOPMENT OF ITS RESOURCES

PROF

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1961



THE INTERSTATE COMMISSION

ON THE DELAWARE RIVER BASIN

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## **The Delaware River Basin A Home Rule Program for the Development of Its Resources**

*By James H. Allen*

THE Delaware River Basin—A Home Rule Program for the Development and Conservation of its Resources. I wonder what your reaction was when you read this title. Did the reference to "A Home Rule Program" have any particular significance to you? I hope it did because in my mind, and I trust I shall be able to convince you, this is the most important aspect of my discussion. A program for the development of the resources of the Delaware River Basin is desirable, is necessary. But over and above all, if we in this nation are going to continue to operate upon a truly democratic basis, it is essential that this and many other enterprises be *home rule* programs.

A paper presented on October 15, 1943, in Philadelphia, at the joint meeting of the Four States Section and the Pennsylvania Water Works Operators Association by James H. Allen, Chief Engineer, INGODEL, Philadelphia, Pa.

In support of this opinion I am going to refer to portions of an article in the September, 1943, issue of *Reader's Digest*, written by one of our most distinguished Congressmen. The description "distinguished" is particularly fitting in this case because, strangely, the author is neither from any of our states here represented, nor is he, as far as I know, connected with the movement in which the Commission I represent is participating, nor a member of the minority party in Congress, as you might suspect if I permitted him to remain incognito. And yet, in my judgment, he expresses our way of thinking on this subject of home rule, perhaps better than we do ourselves. I am sure, coming as it does from a source far removed from our locality, he does it more effectively. I give you the words of wisdom and counsel of Hatton W. Summers of Texas.

Why is it, he asks, that in this land where everybody proclaims his devo-



tion to democracy, representative government is withering before our eyes?

### What Is Happening To Democracy?

He then goes on to explain what the forces are which have been acting to destroy the principle of local self-government. Two are uppermost. Neither of them was brought on or made necessary by the present war. They have been in action for the past 50 yr. At first they grew in slow easy stages. Then, paraphrasing Summers, the last war gave them a big push, the postwar dislocation which followed accelerated the trend, the great depression raised the movement to avalanche proportions, and the present war seems to be completing the job.

One of these forces is the inclination on the part of the people to invite the federal government to intervene in all of their problems. Said Summers:

"Every town and state, every trade association and trade union, every class and group and desperate minority brings its problems to Washington. And Washington is gladly accepting that responsibility."

Then Summers warns that the promoters of centralization are resorting to the exercise of another force, one against which no constitutional barrier will ever stand—the control of purse strings. As to this power, he remarks:

"By making the units of state government financially dependent on the federal government, that government is acquiring the power to control the units of state government. When this is fully consummated, the sovereignty of the state governments will be liquidated.

"In weakening the states we weaken the whole fabric of free government. The inescapable price of free government is that we exercise it. The most destructive force in the world is not use. If we do not use our powers of self-government in the states we will awaken one day to find that self-government has passed irrevocably out of our hands.

"Government is exercised best in the local community. There the problems are perceived with greater clarity because they are close to the people and on a scale within their grasp."

Summers concludes his article with the following admonition:

"The states must resume the status of responsible sovereign agencies of general government or democracy cannot live in America."

### A Home Rule Program For the Delaware River Basin

You no doubt now understand why I stated, in opening, that the most significant aspect of my subject is not that there is a program for the development of the resources of the Delaware River Basin. The important fact is that the representatives of the people of the states in which the Delaware River Basin is located are, and have been for a long time, of the same mind as Congressman Summers. They refuse to believe that the federal government can do a better job than their local state governments in formulating a program for the development of the Delaware River Basin. The people here want, and are developing, their *own home rule* program. And except when forced by circumstances beyond their control or in cases of a national emergency such as the present war, will they, in any respect, relinquish to

make the national administration their responsibility and power to do this job. The manner in which they are handling the problems within the interstate Delaware River Basin should set an example which may well be followed by many other states in turning the tide toward the sensible resumption of state sovereignty.

We who are pioneering in this movement for better home rule government



among the states through the medium of interstate co-operation are convinced that the type of future government in this country will be determined to a great extent upon the success or failure of our efforts. If successful, we will have helped tremendously in bringing self-government back to the people at home where it belongs. If we fail, we see no alternative other than further concentration of authority and governmental

power, with all its potential dangers, in Washington.

### Federal Interest In Basin

Some of you may be saying by now that I am raising a great fuss about a lot of nothing. Those of you who are doing so may even agree with my thesis up to the present but, for the life of you, you cannot see why I am so concerned. You probably are saying that as far as you know the federal government is not threatening to take over the Delaware River Basin.

Perhaps not. We hope not. But there is no way to be sure of this. We do know that in 1933 the federal administration acquired control of the Tennessee River Basin and has been running things there since. We do know that in 1937 attempts were made in Congress to blanket the entire United States with similar river authorities. We do know that in many sections of the country tremendous sums of national money have been spent upon purely local public works. We do know that many bills have been introduced in Congress for federal control of stream pollution. We do know that a federal agency has suggested that the Delaware River should be utilized for the production of hydro-electric power. We do know that this same federal agency has recommended that Congress should authorize it to construct a ship canal across the State of New Jersey between Trenton on the Delaware River and New Brunswick on Raritan Bay.

Some of these projects may be desirable and advisable, and their construction may be the proper function of the federal government. Some, we believe, are ill-advised and objectionable.



All, we maintain, should be analyzed carefully by the states which would be affected. For those which are advisable a policy for their construction, under which the rights of the states would be properly protected, should be adopted and followed. The surest way to accomplish this is to prepare your *own home rule* program. That is what the states in which the Delaware River Basin is located are doing.

### Incodel Organization

The machinery through which they are tackling this job was constructed in 1936 when the states of New York, New Jersey, Pennsylvania and Delaware organized and created the Interstate Commission on the Delaware River Basin, now popularly known by its nickname, *Incodel*. The Commission is composed of twenty members, five from each state. Of each group of five, one member is from the Senate, one from the House of Representatives, one is the Chairman or Director of the State Planning Board, if such agency exists, otherwise an official of some other department of the state, and the fourth is an administrative official representing the Governor's office. The fifth member from each state is a member at large who is selected by the other members of the Commission.

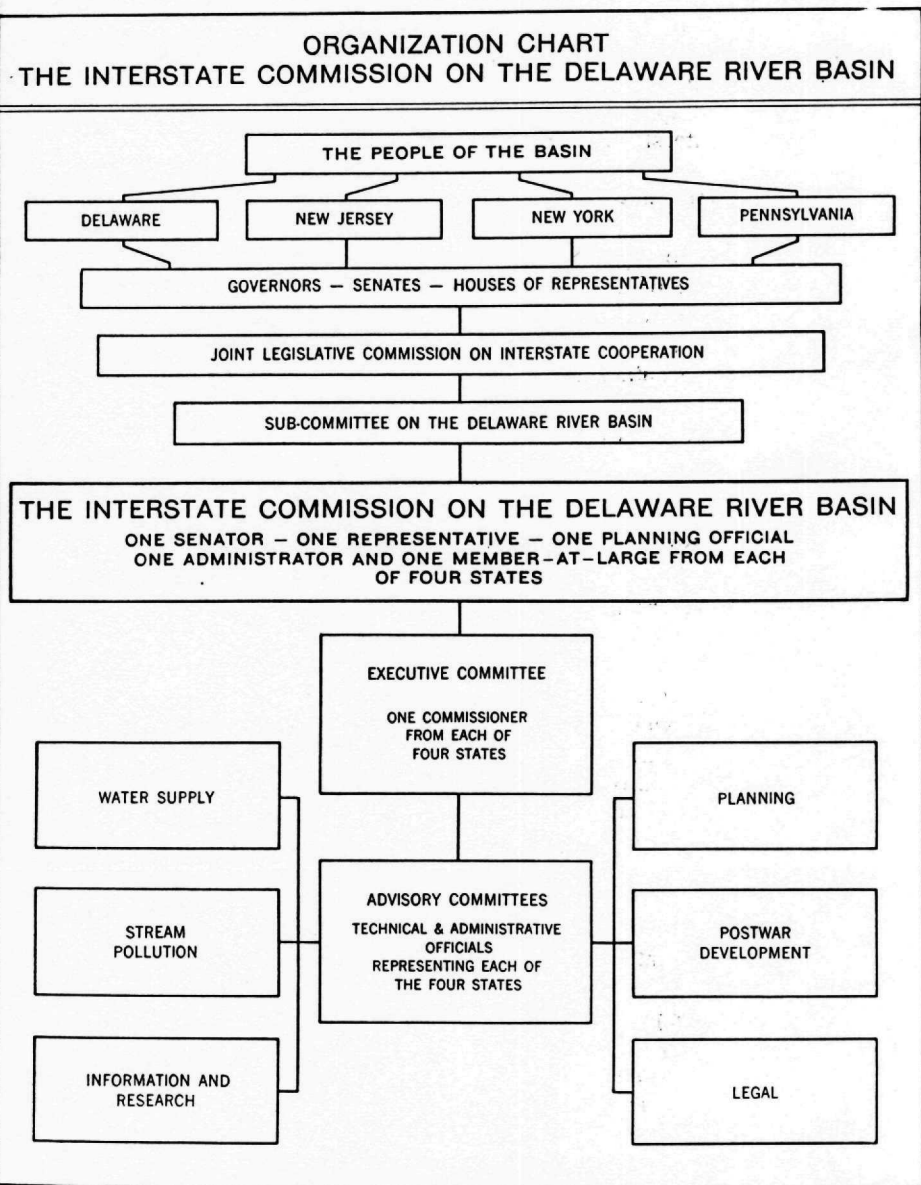
The Commission operates with a small staff on an annual budget obtained from equitably apportioned appropriations from the four participating states. In the conduct of its work it has access to, and avails itself of, the combined facilities and technical resources of the existing agencies of the states' government.

### General Functions

The broad general function of the Commission is to develop and assist in securing the execution of co-ordinated and practical policies and programs for the conservation and wise use of the water and other natural resources of the Delaware River Basin. It seeks to accomplish this objective efficiently and economically, and without fanfare. In no way does it seek to supplant or supersede any of the functions of existing state agencies, legislative, administrative or executive. Instead, its purpose is to co-ordinate, assist, supplement and strengthen each of these branches of state government.

The work of this joint state governmental agency—*Incodel*—is concerned with problems of interest to many departments and agencies of the participating states and of the federal government and also to private business and industrial organizations. Because of this, one approach to its broad objective might have been to start upon an all-out survey of the basin on the theory that such a study was a prerequisite to the satisfactory solution of each major problem, regardless of its importance and urgency. Such an approach would have involved the spending of large appropriations and, no doubt, would have been spectacular.

The Commission, as a matter of fact, was urged to follow this procedure, significantly perhaps, by representatives of a federal board who also proposed that their agency should participate in the work. *Incodel*, however, could not agree that this approach would be effective in the long run. Therefore, instead of embarking upon such a blanket survey the





results of which probably would have been set forth in a voluminous report which few would care to read, the Commission adopted the far more practical policy of making a direct attack on obvious, important and urgent problems of interstate or regional significance. That this approach has been wise and effective is without question.

I am not going to try to make a report to you on all of the activities and program items to which the Commission has devoted its efforts and energies. It will be sufficient to discuss only a few of those in which the federal government, to say the least, has shown an interest.

### Stream Pollution

First, let us think a few minutes about the problem of stream pollution. I believe all of you recall the efforts of the centralizationist to influence Congress to pass a bill whereby the power and authority to enforce stream pollution measures would be taken from the hands of state departments of health and placed into those of a federal agency with power to bring suits into the federal courts against any city or industry alleged to be in violation of the proposed federal law. If this wasn't an effort to usurp the sovereign powers of state government, please tell me what you would call it.

Our Commission opposed this move, and opposed it strongly. It did not do so, however, by crying—you can't do that here. It did more. It said you can't do that here because we have a better way. Then it proceeded to show what that better way is.

Being an interstate stream and the joint property of four owner states, the Delaware River might have been

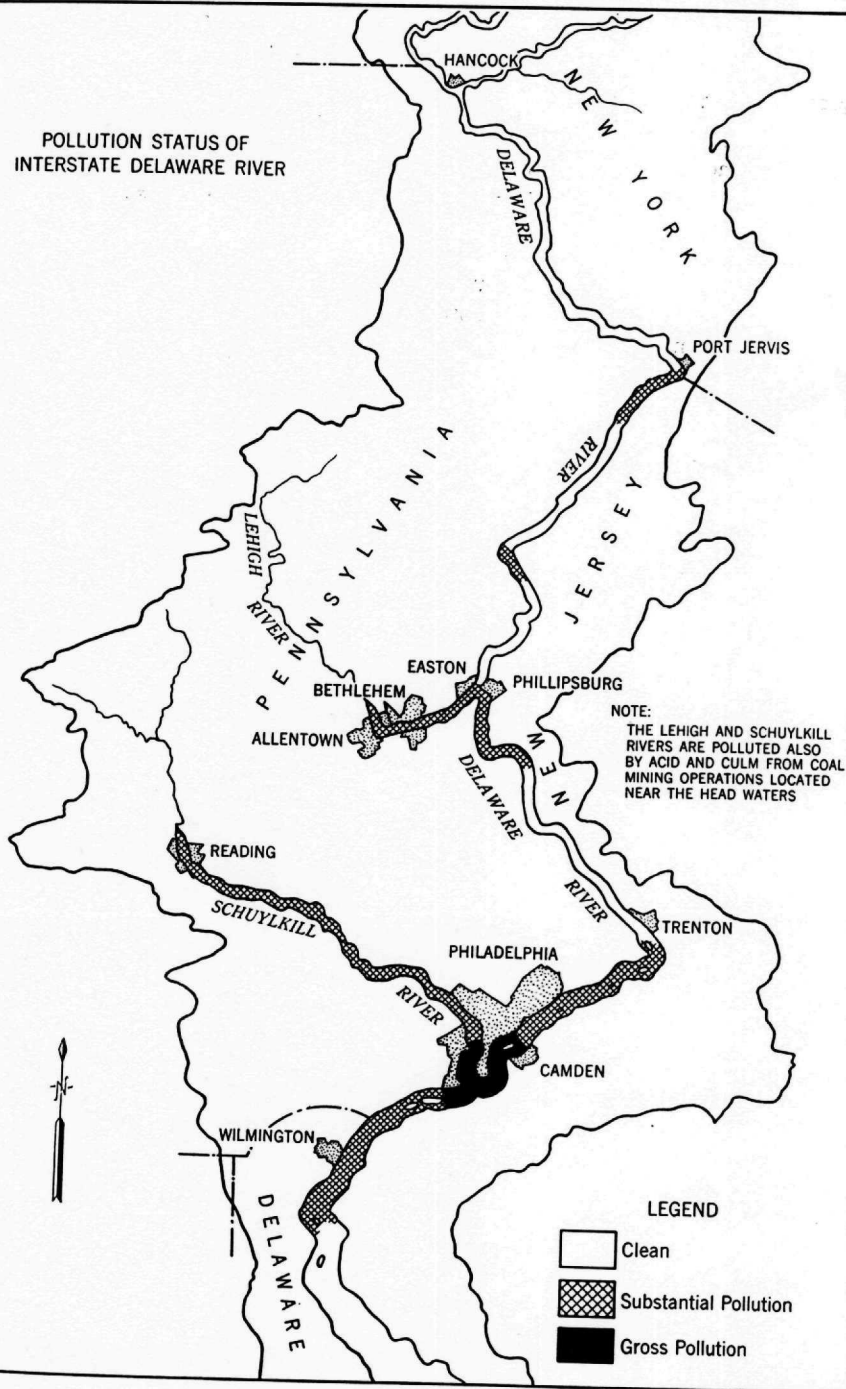
looked upon by these nationalists, as so often is the case, to belong to none of them. However, the four states through which the river flows took an entirely different point of view. They would not agree with such reasoning. They take the position that it is their joint responsibility to formulate, and subsequently to execute, a policy and a plan for the correction and control of pollution in this interstate stream. They are doing this through *Incode*, the joint governmental agency which they created for this and other related purposes.

In operation the procedure which was followed for developing the cooperative policy for stream pollution control brought the chief engineers of each of the four state departments of health around the conference round table. By this method, after several years of study, they evolved a plan whereby the River and its contributory drainage basin was divided into four sections or zones. For each zone, appropriate, reasonable and uniform standards were agreed to and adopted regarding the treatment of sewage, industrial wastes and other polluting material. The agreement formulated in this manner thereupon was incorporated into uniform, reciprocal legislation. It has been ratified and made law in each of the participating states except Pennsylvania where it is now pending and, we are confident, will be passed in the near future. This method, I believe you will agree, is the *home rule* method of dealing with this water resource problem. Can any one maintain that an agency in Washington could handle this problem as well as was done by the engineers of the state governmental agencies who have been devoting their lives' work

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# POLLUTION STATUS OF INTERSTATE DELAWARE RIVER





to the pollution problems of this region?

### Hydro-Electric Power

Let us next analyze briefly the question as to whether the Delaware River can be developed advantageously for the production of hydro-electric power. A congressional report published in 1932 sets forth the results of a survey of the river which had just been completed at that time by the U.S. Army Engineer Office. The report advances a proposal for the construction of a series of reservoirs in the upper basin to be used for the dual purpose of providing a source of future or additional water supply for the New York City, Philadelphia and northeastern New Jersey metropolitan areas and for the production of hydro-electric power. The engineers stated that federal participation in such a project did not appear justifiable. They also, very properly, recommended that any development of the Delaware River above Trenton should be controlled by an interstate agency representing the interested states.

While the policy for joint control of the river by the states as suggested by the Army Engineers is logical, the Commission realizes that it does not necessarily represent the view of present or future national administrations. With the aim, therefore, of knowing the facts in order to be prepared to appraise intelligently possible future proposals which might involve or lead to the establishment of a federal authority in the Delaware watershed, as was done in the Tennessee Valley, the states, through *Incodel*, made their *own home rule* investigation of the situation in this basin.

It found among other things that:

1. The development of the Delaware River for hydro-electric power *alone*, whether under private or public control, would not be economically attractive.

2. That while power developments *might* be combined advantageously under public control, with a joint water supply project for Philadelphia and northeastern New Jersey, there appears to be no need, reason or inclination on the part of the states involved to develop such a joint water supply in the near future, and the probability of its ultimate development is questionable. As long as these are the facts, suggestions for the wholesale development of the Delaware River for water power have no merit whatever.

The Commission trusts that the results of this *home rule* study disposes of the possibility of any movement on the part of the federal government to undertake to harness the waters of the Delaware Basin for the production of hydro-electric power. If, in the future, the use of the waters of the River for this purpose in conjunction with other uses should become advisable, the states in the Basin believe they will be fully competent to recognize the advantages of such a project and to be a party to its development and operation.

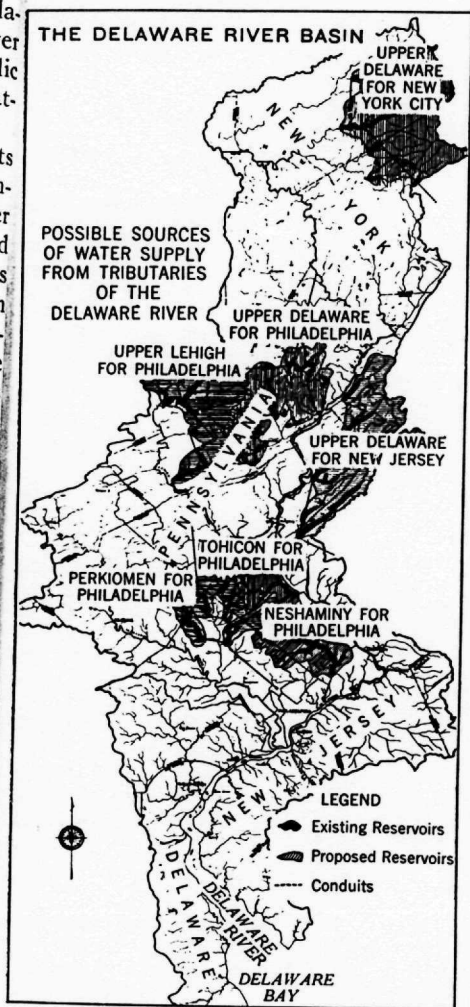
### The New Jersey Ship Canal

The proposed federal construction of a ship canal, costing at least \$200,000,000, across the State of New Jersey between Trenton on the Delaware River and New Brunswick on Raritan Bay is another project to which the four states through *Incodel* have given careful consideration. The joint interest of the states in this project concerns particularly the probable effect of the op-

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000 gal. of water a day, and probably a much greater quantity, would be diverted from the river during periods of summer drought for its operation. To our knowledge no provision was being made to get this water from a stored supply. Consequently its taking during periods of summer drought would have a serious and damaging effect. The reduction of stream flow would increase the pollution load in the river, aggravate salinity conditions in the lower estuary, and generally cause an appreciable deterioration of the quality of the water in the river for municipal and industrial uses.

Furthermore, the claim made in this report that locks at each end of the canal could be so constructed and operated as to prevent the admission of any intolerable amount of salt water into the Delaware River from Raritan Bay is questionable. As far as we know no method yet installed has operated successfully in this respect for a canal of the size and type under consideration.

In view of the above circumstances, and because the canal, in any event, could not be built for use during the present war, *Incodel* has taken the position that, as presently proposed, the project should not be authorized. It further maintains that before authorization, opportunity should be afforded the states and regions affected to suggest such revisions as may be necessary to overcome any features of the proposal which may be unreasonably inimical to the interests of the states directly affected.

We are sure that consideration is being given to the objections raised by *Incodel* pursuant to its *home rule* analysis of this federal proposal. We are confident that the construction of the

eration of the canal upon the quality of the water in the Delaware River. Below Trenton, approximately 2,500,000 persons, in Bristol, Burlington, Philadelphia and Chester, get their municipal water supply from the Delaware. Hundreds of important industries also depend entirely upon the River for their source of water. If the canal were constructed as we know it now to be proposed, at least 150,000,-



canal, as its design was last made known to us, will not be authorized by Congress.

### Water Supply Diversion Projects

Perhaps the most troublesome and difficult problem which the Commission has tackled has been to devise rules and conditions under which each of the states may construct and operate water supply projects located in the basin but from which the water would be transported for use into areas lying outside of the Delaware watershed.

New York City is constructing such a project now. Under the authority of a decree handed down by the U.S. Supreme Court in 1931, it has been given the right to divert 440 mil.gal. of water a day from the Delaware watershed. The first stage of this development is under construction.

It is probable that New Jersey will undertake a similar type of development sometime in the future to meet the needs of its northeastern metropolitan area. Several proposals have been advanced for this purpose, among them one which provides for the diversion of 150 mil.gal. of water daily from the natural flow of the Delaware River at a point about 20 mi. above Trenton, N.J.

The city of Philadelphia also is confronted with a water problem. The probabilities are that this city will wish to obtain its future supply from tributaries of the Delaware River located in the upland watershed area in Pennsylvania. Such a project would involve the diversion of approximately 500 mil.gal. of water daily from a considerable stretch of the Delaware River.

You all can understand that unless such projects are operated under suitable conditions whereby there would be

no diminution of the natural flow of the streams during periods of low run-off, substantial damages would be imposed upon lower riparian owners. The Commission, through the chief engineers of the responsible water resources agency of each of the four states, has made a most painstaking study of this problem. The result has been complete agreement among them upon a policy under which each state in the future may make such developments as are necessary to meet the reasonable needs of its people and, at the same time, protect and improve conditions for the lower interests in the river.

### The Salinity Problem

The problem created by the tremendous increase in the salt content of the river water in the tidal estuary between Philadelphia and Wilmington during periods of drought and low run-off is extremely serious to this highly industrialized area. Investigations made by our Commission show that these salinity invasions increase the cost of municipal and industrial water treatment by approximately \$400,000 a year, on the average. In extremely dry years the increased expense may run as high as \$2,000,000.

*Incode*, in co-operation with the industries in the affected area, has given much attention to this problem. A practical solution lies in the construction of supplementary sources of industrial water supply to supplant the deteriorated river water during periods of high salinity. The construction of such works is an early "must" in the postwar development of the Delaware River region.

### Water Conservation

Early in May of 1942, *Incode* was asked to undertake the planning and

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management of a Water Conservation Campaign in the Philadelphia Metropolitan District.

The war needs of the five-county area which include the District were increasing at such an alarming rate that unless "water-as-usual" habits were curtailed a serious breakdown seemed inevitable. It was obvious, however, that the situation did not rest in the hands of the management of the several water supply agencies serving the District but rather upon the degree of co-operation on the part of the 2,500,000 users of water to the pleas, "Don't Be A Drip!" and "Use Water Wisely."

The patriotic response of the citizens to the request to conserve water for war and essential civilian needs and services was most encouraging. Through them, the District not only met the increased demands brought on by the war but did it with 20 mgd. less than was used the previous year.

### Postwar Preparedness

I cannot conclude my paper without having you know that our Commission

too is preparing for peace. I shall do this by quoting briefly from our last annual report, issued in June of this year. In a section headed "Post-war Preparedness," the Commission says:

"At the moment no task is more vital than winning the war. But next in importance is the necessity of being prepared for the period of reconstruction that is to follow. The states of the Delaware River Basin have clearly recognized this mandate for postwar preparedness and are now engaged on many fronts in this campaign."

We agree and endorse the slogan adopted by the Inter-association Committee on Water and Sewage Works Development—"Blueprint Now." Our Commission already is actively engaged on a program to get its governmental subdivisions to do this very job. But as with all our other activities, we want and shall strive to see that this work will be done on a truly *democratic* and *home rule* basis.



