

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

SUBJECT: Elevation of the proposed permit for
the North Fork of the Hughes Reservoir

DATE: 10-27-94

FROM: Peter H. Kostmayer
Regional Administrator

TO: Robert Perciasepe
Assistant Administrator for Water

Attached is a letter dated October 27, 1994 to Colonel Richard W. Jemiola of the Huntington District Corps of Engineers informing him that in accordance with Part IV 3(d) of the Section 404(q) Memorandum of Agreement, I am forwarding my concerns regarding the proposed permit to you and requesting that they be forwarded to the Assistant Secretary of the Army for Civil Works [ASA(CW)]. These concerns involve the adverse impacts associated with a proposed multi-purpose reservoir on the North Fork of the Hughes River in Ritchie and Doddridge Counties, West Virginia, for which the U.S. Soil Conservation Service in Morgantown, West Virginia (SCS) is the lead Federal agency.

The considerable aquatic and riparian habitat provided by the North Fork of the Hughes River and its relatively undisturbed nature make this system a high value habitat that is becoming scarce in its ecoregion. The river supports a warmwater fishery but includes species typical of cooler aquatic habitats such as smallmouth bass. The North Fork also provides habitat for at least 22 species of freshwater mussels, which represents a faunal group in North America that has 72% of its taxa listed as endangered, threatened, or of special concern. The proposed reservoir would result in significant primary and secondary impacts to the aquatic ecosystem.

Moreover, the project lacks a genuine analysis of alternatives. This shortcoming is a consequence of the disturbing contention of the SCS that it is not required to conduct a good faith analysis of alternatives because Congress authorized and funded the proposal. In fact, the SCS admitted that an alternatives discussion was included in the Environmental Impact Statement simply to document for the public, Congress' decision. As a result, alternatives to the multi-purpose reservoir were dismissed out of hand and others were not considered at all. This proposal is required to undergo a good-faith analysis of alternatives in accordance with the National Environmental Policy Act and the Section 404(b)(1) Guidelines. It neither qualifies as a categorical exclusion under the



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Colonel Richard W. Jemiola
District Engineer
U.S. Army Corps of Engineers
502 Eighth Street
Huntington, West Virginia 26701

OCT 27 1994

Re: Statement of Findings and Draft Permit for the North Fork Hughes River Reservoir Project; Ritchie County, West Virginia; Little Kanawha Soil Conservation District.

Dear Colonel Jemiola:

In accordance with the provisions of the 1992 Memorandum of Agreement (MOA) between the U.S. Environmental Protection Agency (EPA) and the Department of the Army under Section 404(q) of the Clean Water Act, I am notifying you that I have elevated to EPA's Assistant Administrator in the Office of Water your proposed decision to issue the subject permit. Included with this elevation is my recommendation that this issue be forwarded to the Assistant Secretary of the Army for Civil Works.

The basis for this elevation is that the above referenced project will have a substantial and unacceptable impact on an Aquatic Resource of National Importance. The North Fork of the Hughes River is listed as a High Quality Stream by the West Virginia Division of Natural Resources. The river supports a warmwater fishery but includes species typical of cooler aquatic habitats such as smallmouth bass. The North Fork provides habitat for at least 22 species of freshwater mussels, which represents a faunal group in North America that has 72% of its taxa listed as endangered, threatened, or of special concern. The considerable aquatic and riparian habitat provided by the river and its relatively undisturbed nature make this system a high value habitat that is becoming scarce in its region.

Moreover, the project lacks a genuine analysis of alternatives, which is contrary to the National Environmental Policy Act (NEPA) and its implementing regulations and the Section 404(b)(1) Guidelines (40 CFR 230.10). This shortcoming is a consequence of the contention of the U.S. Soil Conservation Service in Morgantown, West Virginia (SCS) that it is not required to conduct a good faith analysis of alternatives because Congress authorized and funded the proposal. In fact, the SCS admitted that an alternatives discussion was included in the Environmental Impact Statement (EIS) simply to document for the public, Congress' decision.