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DIVISION OF NATURAL RESOURCES

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**Joe Manchin III
Governor**

**Frank Jezioro
Director**

April 27, 2009

Mr. Kevin Wickey
State Conservationist
Natural Resources Conservation Service
75 High Street, Room 301
Morgantown, WV 26505

Re: Draft Supplemental Work Plan – Second Draft
Environmental Impact Statement Lost River
Subwatershed of the Potomac River Watershed, Hardy
County, Upper Cove Run, Dam Site #16

Dear Mr. Wickey:

The West Virginia Division of Natural Resources (DNR) has reviewed the referenced document and offers the following comments as the project relates to wildlife and associated recreational resources.

Lower Cove Run is listed as a "high quality stream" by the WVDNR and as a "B2 Trout Water" under Title 47 of the West Virginia Water Quality Standards. Lower Cove Run has been degraded in its lower reaches by agricultural activity resulting in poorer quality trout habitat within the project boundaries and downstream to its confluence with Lost River. Lost River is considered a cool water stream and is stocked with trout in the spring and fall. It is not unconceivable for native trout to venture into the Lost River during favorable water temperature conditions given that common cohorts, fantail darters and dace, are commonly collected in Lost River's mainstem. The project will sever the connection of Upper Cove Run to Lost River. Headwater functions such as transport of nutrients derived from the processing of detritus, coarse organic matter (COM), fine particulate organic matter (FPOM) and dissolved organic matter (DOM) will be severely disrupted with the completion of the project.

The DNR is still concerned that recreational fishing is considered by the NRCS and the sponsors as an "incidental" project benefit. Value derived from recreation accounts for approximately thirty percent of the annual dollar value benefits from the proposed project and the project could not achieve a positive cost benefit ratio (CBR) without the "incidental" recreation. We request that a signed agreement between the sponsors and DNR/DEP be in place prior to the start of construction on the project that guarantees public access to the project for the life of the project. If for any reason public access is denied for recreation, specifically fishing, the project sponsors will be required to compensate for the loss of recreational opportunities.

The DNR is concerned that mitigation funding is lumped with the general construction budget. Unforeseen construction cost overruns could inadvertently cut into mitigation obligations. Mitigation obligations are as important as the physical construction of the dam. We will request that compensatory mitigation plans (CMP) be in place and pre/concurrent construction of mitigation as a 401 permit condition. The final EIS should state that final CMP plans will be approved prior to construction of the dam.

The DNR is pleased that the NRCS included lake habitat improvement projects in the referenced document. The final EIS for the project should state that lake habitat improvement structures will be part of the approved CMP.

The document is vague relating to which parties will be financially responsible for the maintenance of the limited recreational facilities on the lake (trash pick-up, porta-johns, maintenance of access trail and ramp). The sponsors are claiming significant economic benefit from recreation to help meet CBR so it would be logical that the sponsors play a significant role in the maintenance of the recreational facilities.

The document requests a 1:1 ratio for unavoidable wetland impacts. State code requires 2:1 compensatory mitigation for impacts to PEM wetlands and 3:1 for PSS wetlands. Given the fact that the subject wetlands have severely degraded functions by agricultural activities, a 1:1 ratio may not be an unreasonable request to replace the lost wetland functions. The 1:1 ratio, if approved, would only apply to restored/created wetlands. Enhancement of existing wetlands has been credited at a 5:1 ratio for other projects. The DNR would consider preservation of existing high quality wetlands at a 10:1 ratio. On page 106, the document states that the upper pool is predicted to have up to five acres of less than three feet water depth. The NRCS states that this area could be "enhanced" and they will seek wetland mitigation credit. Generally, the DNR considers any water depth over two feet as "open water" and, therefore, of limited value as wetland mitigation. We will request that a CMP be in place and construction of the CMP prior to or concurrently with impacts.

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On page 60 of the referenced document, the NRCS is claiming water quality benefits from the elimination of livestock from Lower Cove Run. Currently, approximately 20 head of cattle and a few horses routinely graze in the pastures that will be eliminated by the proposed project. The DNR does not argue that there may be some water quality benefits from the elimination of livestock that currently have unrestrictive access to the stream. However, the NRCS falsely asserts that this benefit may be nullified if Canada geese take up residence on the impoundment. According to accepted USDA animal unit conversion ratios, one goose is equivalent to 0.0231 cow or 0.0062 horse. Therefore, it would take \pm 3,000 resident geese to produce the same amount of waste as 20 cows and five horses. This is an unrealistic scenario. Current federal waterfowl regulations restrict the use of shotgun shells to non-toxic shot so the inclusion of waterfowl hunting on the proposed impoundment would not pose a threat to the water supply function of the project and help protect the water quality from the perceived threat of over abundant waterfowl.

If you have any questions regarding our comments, please contact Mr. Danny Bennett of my staff at the Elkins Operations Center 301-637-0245 dannybennett@wvdnr.gov.

Sincerely,



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APR 28 2009
Curtis I. Taylor, Chief
Wildlife Resources Section

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