

①

Record of Decision

Lost River Subwatershed of the Potomac River Watershed Hardy County, West Virginia

1. Purpose – As State Conservationist for the Natural Resources Conservation Service (NRCS), I am the Responsible Federal Official (RFO) for all NRCS projects in West Virginia.

The recommended plan for the Lost River Subwatershed Project involves works of improvement to be installed under authorities administered by the NRCS. This project includes the installation of a multiple purpose flood retarding and water supply reservoir (Site 16) on Lower Cove Run, Hardy County, West Virginia.

The Lost River Subwatershed Plan was prepared under the authority of the Flood Control Act of 1944 (Public Law 78-534, as amended) by the Hardy County Commission, Potomac Valley Conservation District and West Virginia State Conservation Committee. An agency coordination meeting held in October 2005 established the NRCS as the lead agency and the USDA Forest Service (USFS) as a cooperating agency.

2. Measures taken to comply with national environmental policies Site 16 of the Lost River Subwatershed of the Potomac River Watershed project has been planned in accordance with existing Federal legislation concerned with the preservation of environmental values. The following actions were taken to ensure that the Lost River Subwatershed Site 16 Plan is consistent with national goals and policies.

An interdisciplinary environmental evaluation was completed by a planning team under the direction of NRCS and in conjunction with the October 2005 interagency coordination meeting. It concluded that significant impacts on the human environment may occur because of the complexity and public interest of the proposed action. The RFO at that time (Ronald L. Hilliard) directed that a draft environmental impact statement (EIS) be prepared.

The interdisciplinary environmental evaluation of the Lost River Subwatershed Site 16 Project was conducted by the sponsoring local organizations, cooperating agency, assisting agencies and the NRCS. Information was obtained from many governmental and non-governmental entities. Consultations were conducted with the USFS, US Fish and Wildlife Service (USFWS), USDA Rural Development, West Virginia Division of Natural Resources (WVDNR), West Virginia Historic Preservation Officer, and the Hardy County Public Service District. Inputs from these consultations were included in the EIS.

Doc. 256

A public scoping workshop was held on August 1, 2006 to solicit public participation in the environmental-evaluation, to assure that all interested parties had sufficient information to understand how their concerns are affected by water resource problems, to afford local interests the opportunity to express their views regarding the plans that can best solve these problems, and to provide all interests an opportunity to participate in the plan selection. Written comments submitted at the workshop, and by mail or email following the workshop, are on file.

Existing data and information pertaining to the project's probable environmental consequences were obtained with assistance from other scientists and engineers. Documentary information as well as the views of interested Federal, State and local agencies and concerned individuals and organizations having special knowledge of, competence over, or interest in the project's environmental impact were sought. This process continued until it was felt that all the information necessary for a comprehensive, reliable assessment had been gathered.

A complete picture of the project's current and probable future environmental setting was assembled to determine the proposed project's impact and identify unavoidable adverse environmental impacts that might be produced.

The consequences of a full range of reasonable and viable alternatives to specific project features were considered, studied and analyzed. In reviewing these alternatives, all courses of action that could reasonably accomplish the project purposes were considered. Attempts were made to identify the economic, social and environmental values affected by each alternative. Both structural and nonstructural alternatives were considered.

The alternatives considered reasonable to accomplish the project's objectives were: (1) the NED plan -- no action - future without project, and; (2) the recommended plan -- construction of a multiple purpose impoundment, Site 16, on Lower Cove Run and the elimination of impoundment Site 23 proposed for Cullers Run. Numerous other potential alternatives were suggested and evaluated. All measures considered were presented in the EIS.

About 100 copies of the draft subwatershed plan - EIS were distributed to pertinent agencies and stakeholders for review on August 25, 2006, and the draft EIS was posted electronically on the West Virginia NRCS website. About 80 post card notifications announcing the availability of the draft EIS were sent to agencies, stakeholder groups, tribal representatives and individuals located beyond the immediate project area. The draft EIS was filed with the Environmental Protection Agency and a Notice of Availability was published in the Federal Register on September 8, 2006. Comments were received until October 25, 2006. A widely advertised public informational workshop was held on September 26, 2006. Additional information was added to the EIS document to clarify specific issues and address agency and public comments received.

The final EIS was distributed to all pertinent parties on April 23, 2007, and a Notice of Availability of the final EIS was published in the Federal Register on May 4, 2007. A Record of Decision (ROD) was signed on July 9, 2007. The ROD recommended that the Lost River Subwatershed Site 16 be implemented. A Notice of Availability of the ROD was published in the Federal Register July 16, 2007.

On February 12, 2009, the RFO (Kevin Wickey) announced to agencies, non-governmental organizations and individuals interested in the Lost River Subwatershed Project that NRCS had made a decision to withdraw the July 2007 ROD. A notice announcing the withdrawal of the ROD was published in the Federal Register on March 23, 2009. The ROD was withdrawn in order to update information contained in the April 2007 final EIS and re-issue the document as a Second Draft EIS.

On April 1, 2009 about 70 copies of the Second Draft Supplemental Work Plan Second Draft EIS were distributed to pertinent agencies and stakeholders for review. This draft EIS was posted electronically on the West Virginia NRCS website. About 75 post card notifications announcing the availability of the Second Draft EIS were sent to agencies, stakeholder groups, tribal representatives and individuals located beyond the immediate project area. The Second Draft EIS was filed with the Environmental Protection Agency and a Notice of Availability was published in the Federal Register on April 10, 2009. Comments were received until May 27, 2009. A widely advertised public informational workshop was held at Mathias, WV on May 14, 2009.

Updated information presented in the April 2009 Draft Supplemental Work Plan - Second Draft EIS included the completed wetlands delineation, the completed Phase I and Phase II archaeological investigations, additional discussion of cumulative effects, additional discussion pertaining to new housing and the Hardy County Commission's proposed water distribution system, and a proposed compensatory mitigation plan.

A Final Supplemental Work Plan - Final EIS (Second Issue) was distributed to all pertinent parties on August 24, 2009, and posted on the West Virginia NRCS website. A Notice of Availability of the Final EIS (Second Issue) was published in the Federal Register by EPA on September 4, 2009.

3. Conclusions The following conclusions were reached after carefully reviewing the proposed Lost River Subwatershed Site 16 project in light of all national goals and policies, particularly those expressed in the National Environmental Policy Act, and after evaluating the overall merit of possible alternatives to the project:

- a. The Lost River Subwatershed Site 16 project will employ reasonable and practicable means that are consistent with national environmental policy while permitting the application of other national policies and interests. These means include, but are not limited to, a project planned and designed to minimize

adverse effects on the natural environment while accomplishing an authorized project purpose. Project features designed to preserve existing environmental values for future generations include: (1) Cold water release - the dam will be designed with a cold water release in the principle spillway, providing for the release of water about 13 feet below the proposed pool's surface elevation; (2) Minimum flow - the cold water release will allow for low flow augmentation to the Lost River during periods of drought; (3) In-stream habitat enhancement habitat improvements will be installed in Lower Cove Run, in consultation with WVDNR and the USFWS, to minimize habitat losses associated with the conversion of perennial stream to lake environment; (4) Impoundment habitat enhancement - habitat enhancements will be incorporated into the lake, in consultation with WVDNR fishery biologists, to create an exceptional channel catfish waters; (5) Fishery management and public access - the WVDNR will stock and manage the lake's fishery and public access will be assured by the construction of an access road, parking area, boat launching area and shoreline access; (6) Upland habitat enhancement terrestrial habitat improvements will be implemented in consultation with WVDNR and the USFWS to compensate for habitat lost as a result of constructing the dam, spillway and impoundment; and, (7) Wetland enhancement NRCS will work with WVDNR, the USFWS and the Corps of Engineers to develop plans and specifications for the creation of mitigation wetlands and/or wetland enhancements to compensate for wetlands that may be adversely impacted by the project construction.

- b. The Lost River Subwatershed Site 16 project was planned using a systematic interdisciplinary approach involving integrated uses of the natural and social sciences and environmental design arts. All conclusions concerning the environmental impact of the project and overall merit of existing plans were based on a review of data and information that would be reasonably expected to reveal significant environmental consequences of the proposed project. These data included studies prepared specifically for the project and comments and views of all interested Federal, State and local agencies and individuals. The results of this review constitutes the basis for the conclusions and recommendations. The project will not affect any cultural resources eligible for inclusion in the National Register of Historic Places. Nor will the project affect any species of fish, wildlife or plant or their habitats that have been designated as endangered or threatened.
- c. In studying and evaluating the environmental impact of the Lost River Subwatershed Site 16 project, every effort was made to express all significant environmental values quantitatively and to identify and give appropriate weight and consideration of nonquantifiable environmental values.
- d. Wherever legitimate conflicts of scientific theory and conclusions existed and conclusions led to different views, persons qualified in the appropriate environmental disciplines were consulted. Theories and conclusions appearing to be most reasonable, scientifically acceptable, or both, were adopted.

- e. Every possible effort has been made to identify those adverse environmental effects that cannot be avoided if the project is constructed. These effects will be minimized or mitigated when possible as described in item (a) above and in the proposed compensatory mitigation plan included in the final EIS. When approved, the compensatory mitigation plan, including a monitoring plan, will become a condition of the Department of the Army 404 permit and the West Virginia state 401 certification for this project. The monitoring plan will be in effect for no less than five years after construction is complete and will insure that mitigation measures function appropriately.
- f. The long-term and short-term resource uses, long-term productivity and the irreversible and irretrievable commitment of resources are described in the final EIS.
- g. Adverse social effects related to property acquisition and the relocation of families and businesses affected by the project are acknowledged. Property acquisitions and relocations will be accomplished in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.
- h. All reasonable and viable alternatives to project features and to the project itself were studied and analyzed with reference to national policies and goals, especially those expressed in the National Environmental Policy Act and the Federal water resource development legislation under which the project was planned. Each, possible course of action was evaluated as to its possible economic, technical, social and overall environmental consequences to determine the tradeoffs necessary to accommodate all national policies and interests. No alternative or combination of alternatives will afford greater protection of the environmental values while accomplishing the project goals and objectives.

I conclude, therefore, that the proposed project will be the most effective means of meeting national goals and is consistent in serving the public interest by including provisions to protect and enhance the environment. Due to potential adverse environmental impacts that cannot be avoided in implementing the proposed action, I conclude that the NED plan -- no action - future without project alternative (alternative 1) is the environmentally preferable alternative. However, alternative 1 does not address the identified needs of flood control and water supply in the Lost River watershed. Adverse environmental effects of implementing the Site 16 Project will be minimized or mitigated as described in item (a) above and in the proposed compensatory mitigation plan included in the final EIS. All practicable means to avoid and minimize environmental harm associated with the selected alternative have been adopted.

6

4. Decision - Having concluded that the proposed Lost River Subwatershed Site 16 Project will serve the overall public interest, that the final EIS has been prepared, reviewed and accepted in accordance with the provisions of the National Environmental Policy Act as implemented by Department and Agency regulations for the preparation of environmental impact statements, and that the project meets the needs of the project sponsors, I propose to implement the Lost River Subwatershed Site 16 Project.

By: 
LOUIS E. ASPEY

Acting State Conservationist
Natural Resources Conservation Service
U. S. Department of Agriculture

DATE: 7 OCT 09