



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
100 ARMY PENTAGON
WASHINGTON DC 20315-5100



22 DEC 1994

REPLY TO
ATTENTION OF

Honorable George T. Frampton, Jr.
Assistant Secretary for Fish
and Wildlife and Parks
Department of the Interior
Washington, D. C. 20240

Dear Mr. Frampton:

This is in response to your letter of November 22, 1994, in which you requested our review of issues related to a Department of the Army permit being considered by the Army Corps of Engineers Huntington District. The permit would allow the Little Kanawha Soil Conservation District to construct a dam on the North Fork of the Hughes River near Harrisville, West Virginia. I have decided there is a need for additional review of alternatives to the proposed action, as required by the Section 404 (b)(1) Guidelines.

Your request for review was made pursuant to Part IV of the MOA between the Army and the Interior (DOI), and focused on the potential availability of less environmentally damaging practicable alternatives. We have carefully reviewed the concerns raised in your letter and the Huntington District's decision documents, and additional information from NRCS and the applicant. Our review included an on-site inspection and discussions with Environmental Protection Agency (EPA) representatives, Fish and Wildlife Service (FWS) representatives, the Corps Headquarters and Huntington District, State agency representatives, and representatives of the applicant.

We agree that the North Fork of the Hughes River qualifies as aquatic resources of national importance. However, we were unable to determine whether the proposed project would result in substantial and unacceptable adverse impacts to these resources or if the net loss to the resources, after considering any mitigation, would be unacceptable.

In the documents furnished to us, there is a lack of substantive information regarding environmental impacts in the district's 404(b)(1) Guidelines evaluation alternative analysis. The analysis did not indicate that all special aquatic sites had been considered.

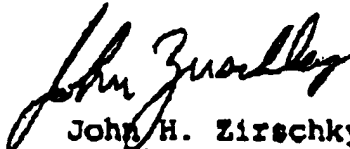
Accordingly, I have asked Corps Headquarters to advise the Huntington District that prior to proceeding with the final permit decision, the district must undertake a reevaluation of the

alternatives as required by the section 404 (b)(1) Guidelines. This reevaluation must take into consideration the value and impacts to special aquatic sites.

The District's evaluation will include an opportunity for involvement and comment by the local FWS and EPA representatives, as well as coordination with the local NRCS. The reevaluation will occur in two steps. The first step will be to review existing file information we understand to be available from the NRSC and report back to Corps headquarters as to the sufficiency of that information for the 404 (b)(1) analysis. At that time, Corps headquarters will, in coordination with your office, provide additional guidance to the District Engineer, if required, to complete the 404 (b)(1) analysis, and proceed to a decision on the merits.

As always, the efforts of you and your staff in raising this case to our attention are appreciated. Should you have any questions or comments concerning our decision in this case, do not hesitate to contact me or Mr. Jack Chowning, Acting Assistant for Regulatory Affairs, at (202) 272-1725.

Sincerely,



John H. Zirschky
Acting Assistant Secretary of the Army
(Civil Works)