

Reference: RGL 82-05

Subject: SPECIAL CONDITIONS-STREAM FLOW

Title: PERMIT CONDITIONING FOR MINIMUM IN-STREAM FLOWS

Issued: 04/20/82 Expires: 12/31/84

Originator: DAEN-CWO-N

Description: GUIDANCE ON CONDITIONING PERMITS FOR IN-STREAM FLOW REQUIREMENTS.

1. The primary responsibility for allocating water quantities rests with the states.
2. The public interest review criteria require district commanders to normally issue Corps permits where all local and state permits have been issued unless there are overriding factors of national concern.
3. When a conflict arises between state water quantity allocation and minimum in-stream flows for purposes of maintaining viable aquatic habitat, district commanders will consider that the public interest is primarily represented by state water allocation rights and that any project alternative which supersedes, abrogates, or otherwise impairs those quantities is not a practicable alternative from the Federal-regulatory perspective.
4. Furthermore, when district commanders believe a permit should be conditioned or denied for situations where minimum in-stream flows are required by Federal statute or substantial national interest (e.g., endangered species or navigation) and there is a conflict between state water quantity allocation and the minimum in-stream flows, district commanders will furnish a report to the Chief of Engineers (ATTN: DAEN-CWO-N) through the division commander prior to making a final decision. The Chief of Engineers will then coordinate this matter with the Assistant Secretary of the Army for Civil Works. District commanders will not take final action until notified by the Chief of Engineers.
5. This guidance expires 31 December 1984 unless sooner revised or rescinded.

FOR THE COMMANDER: