



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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March 6, 2008

Colonel Edward J. Kertis
District Engineer
U.S. Army Corps of Engineers - Savannah District
ATTN: Mr. Jason O'Kane
P.O. Box 889
Savannah, Georgia 31406

Subject: **Newton County Board of Commissioners - Bear Creek Reservoir - 200003600**

Dear Colonel Kertis:

This letter is in response to your request for comments on the above referenced joint public notice (JPN). The Newton County Board of Commissioners (applicant) proposes to impact 126,720 linear feet (lf) (approximately 24 miles) of Bear Creek and its associated perennial and intermittent tributaries, 136 acres of wetlands and 12 acres of open waters to construct a new 1,242-acre pump storage water supply reservoir. Bear Creek is a tributary of the Alcovy River, in southeastern Newton County, Georgia. The project also involves construction of a new water intake and a 6,000-foot force main from the Alcovy River to the reservoir. The reservoir is designed to produce a maximum 28 million gallons per day (MGD) yield for the County to help meet the total projected demand of 47 MGD for a projected 2050 population of 361,517.

The Environmental Protection Agency (EPA) has reviewed the JPN and additional information that accompanied the November 19, 2007, permit application. We appreciate the 30-day extension of the comment period your office granted to all commenting agencies. However, we submit that additional time is needed to fully evaluate this project which, according to information provided by your office, will have the largest extent of stream impacts of any water supply reservoir ever permitted by the Savannah District.

EPA's history with this project dates back to at least 1999. In response to a previous JPN, in a letter dated July 7, 2000, EPA provided detailed comments on the proposed reservoir. Since most of those comments are relevant to the currently proposed project, we have recently resent a copy of that letter to your office. Although the location and size of the current project is essentially the same as in 2000, the project as proposed in 2000, anticipated fewer impacts to aquatic resources (121 acres of wetlands and 73,000 lf of streams). On May 9, 2000, an EPA representative visited portions of the project site. While, unfortunately an EPA representative was not available for the February 6, 2008, site visit, we subsequently tried to arrange a site visit for another date but were unsuccessful. Additional time to evaluate the proposal would provide opportunities to revisit the reservoir site, verify the jurisdiction and to visit and evaluate the 29 proposed mitigation sites.

As noted in the applicant's November 2007 Section 404 Permit Application and Supporting Documentation, existing water quality in Bear Creek is "already quite good." Bear Creek is a third order tributary to the Alcovy River with gravelly sand and some boulder substrates. Numerous second and first order stream tributaries enter the proposed reservoir. East and West Bear Creeks generally consist of shallow, run-pool habitats with sandy silt substrates. The 136 acres of on-site wetlands that would be directly impacted include 80 acres of palustrine forested, broad-leaved deciduous wetlands; 50 acres of palustrine scrub-shrub, broad leaved deciduous wetlands; and 5 acres of palustrine, emergent, persistent wetlands. The 24 miles of stream and 136 acres of wetlands that comprise the aquatic resources complex on the site of the proposed reservoir provide significant functions that are important in the landscape and to the downstream resources of the Alcovy River. Impacts to these types of aquatic resources may reduce the aeration, infiltration and filtration capabilities at the discharge site and downstream, reduce overall stream habitat diversity, retard repopulation of the disposal site (inundation site) and its downstream waters through sedimentation and ultimately create unsuitable habitat. EPA considers these on-site aquatic resources to be resources of national importance (ARNI) and "special aquatic sites" which are defined as geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of the region.

Based on our review of the information provided and considering the scope of the project; the potential direct, secondary and cumulative impacts to the streams and wetlands on the project site and in the watershed, this project may have substantial and unacceptable impacts on aquatic resources of national importance. Additionally, given the significance of the potential impacts of the proposed project, it may be appropriate for you to prepare an Environmental Impact Statement (EIS) to address the project's impacts. In making the determination regarding the need to prepare an EIS, we recommend that you consider the extent to which the applicant has proposed any appropriate mitigation measures. More detailed comments and the rationale for this recommendation are provided below.

Project Purpose

The basic purpose of the project is to provide adequate water to meet the growing needs of the Newton County water supply service area. In the 2000 application, Newton County projected a population of 257,510 by 2045. In this application, Newton County predicts a population of 361,517 by 2050. The current application does not, in our opinion, clearly explain this large change and much higher population projection. To determine the water needs of the county and to develop various alternatives that meet the project purpose, the projected population growth for the service area needs to be demonstrated.

Another critical element of the water supply equation is the gallons per capita per day (gpcd) use rate. Currently Newton County has a gpcd rate of approximately 120. However the applicant used a gpcd of 130 (after conservation measures) to project future water requirements. This seems inconsistent with recent State of Georgia requirements to reduce water usage. It is also inconsistent with gpcd rates for other, urbanized Metro Atlanta counties which now have, and project into the future, lower gpcd rates.

information on both the project impacts and the proposed mitigation actions makes it difficult to determine the plan's adequacy using the SOP screening approach.

As noted above, most of the plan consists of wetland and stream preservation at 10 to possibly 29 sites scattered around Newton County. Many of the stand alone preservation areas, such as those in the land application area or in the middle of subdivisions, do not meet the fundamental stand alone preservation criterion set forth in the U.S. Army Corps of Engineers' (Corps) Regulatory Guidance letter (RGL) 02-2, the Mitigation Action Plan Guidance or the draft Mitigation Rule. While some sites may have merit, there is no baseline data on any of the proposed sites on which to perform even a cursory assessment. We also note that some sites already have a high degree of protection as they are in regional parks.

An additional concern with the mitigation plan is the proposal to include riparian preservation areas located in 19 "conservation subdivisions." While the 46,134 lf of streams in this portion of the plan account for 27 percent of the total stream mitigation linear feet, the mitigation plan provides little information on this proposal and does not give the location of any of the conservation subdivisions.

In order to assess the likelihood of success of the proposed mitigation plan, EPA requested a copy of the permit and mitigation plan for Lake Varner and any compliance information. We believe the mitigation plan for Lake Varner can be used as an indication of the potential for success for the proposed Bear Creek reservoir mitigation plan. As of this writing we have not received this information. We believe this further underscores the need for additional time to evaluate this proposed permit and the mitigation plan.

As noted above, this project, as proposed, may have substantial wetland impacts and will have the largest level of stream impacts of any water supply reservoir proposed for a permit by the Savannah District. The decision reached on this proposal is apt to have significant bearing on other projects in the area and proposes greatly increased water usage at a time when there is a critical water shortage and efforts are underway to reduce water usage. Thus we recommend that, consistent with the evaluation conducted on projects of similar or lesser magnitude of impacts in other Corps Districts, your office consider preparing an environmental impact statement.

In conclusion, the proposed project purpose has not been fully supported, the alternatives assessment has not included a number of practicable alternatives, the applicant's alternatives were assessed using inaccurate data, and all of the direct, indirect and cumulative impacts of the preferred alternative were not assessed. Furthermore, the mitigation plan is fragmented, lacks detail, lacks baseline data, and consists primarily of wetland and stream preservation that is likely to result in a net loss of wetland and stream functions. EPA finds that this project, as currently proposed, may not meet the requirements of the Section 404(b)(1) Guidelines and may have substantial and unacceptable impacts on ARNI. Therefore, EPA recommends denial of the project, as currently proposed. This letter follows the field level procedures outlined in the August 1992, Memorandum of Agreement between the EPA and the Department of the Army, Part IV, paragraph 3(a) regarding Section 404(q) of the CWA. We look forward to working collaboratively with the applicant and the Corps to reduce project impacts to a permissible level.