

DEPARTMENT OF THE ARMY NORFOLK DISTRICT
CORPS OF ENGINEERS FORT NORFOLK,
803 FRONT STREET
NORFOLK, VIRGINIA 23510-1096

June 4, 1999

Southern Virginia Regulatory Section 93-0902-12 (Cohoke Creek)

Mr. R. W. Hildebrandt
Assistant City Manager City of Newport News
2400 Washington Avenue
Newport News, Virginia 23607

Dear Mr. Hildebrandt,

This is to inform you of my position to deny the request submitted by the City of Newport News on behalf of the Regional Raw Water Study Group (RRWSG) for a Department of the Army Permit to construct the proposed King William Reservoir on Cohoke Creek with a raw water intake on the Mattaponi River in King William County, Virginia. My position is based on the lack of a demonstrated need to destroy 437 acres of wetlands as well as the cumulative adverse environmental impacts of the project, particularly the potential for a disproportionately high and adverse effect to an American Indian minority population.

The first critical issue that lead me to this position is the RRWSG's projected need for 39.8 mgd of water through the year 2040. Substantive public comments that the Corps received in response to the Final Environmental Impact Statement (FEIS) raised questions concerning the accuracy of the projected water needs. At my request, the Corps Institute for Water Resources (IWR) undertook a technical analysis of the RRWSG's Needs Assessment as well as the various critiques that questioned the validity of the methodology used to calculate the projected 2040 deficit. The findings of IWR's study are contained in the enclosed draft report entitled "Evaluation of Conflicting Views on Future Water Use in Newport News, VA", dated May 1999.

IWR did not prepare an alternative forecast of the RRWSG'S needs. Rather, they assembled a panel of four nationally and internationally renowned water resource planning experts who prepared alternative calculations, incorporating modest and well- supported changes in the questionable assumptions only. Based on differences in population projections, domestic, commercial and industrial water use calculations and conservation, the panel calculated a deficit of 17 mgd by 2040 rather than the 39.8 mgd projected by the RRWSG.

Other alternatives are available to the RRWSG to meet the smaller deficit of 17 mgd and fully satisfy your needs. The Final Environmental Impact Statement outlines the RRWSG's long- term plans for the development of 4.4 mgd of fresh groundwater and 5.7 mgd of brackish groundwater supplies along with 7.1 to 11.1 mgd of conservation and use restrictions as well as the 23.2 mgd of safe yield from the proposed King William Reservoir. Therefore, the combined 17.2 to 21.2 mgd safe yield of the non- reservoir components would meet the 2040 deficit of 17 mgd.

Also, some alternatives identified in the FEIS were not investigated in detail because they would provide a safe yield lower than the projected 39.8 mgd deficit. Any one of these alternatives or a combination of alternatives might be found to meet the smaller 17 mgd deficit without significant environmental degradation. Furthermore,

it has come to my attention that the RRWSG's projected need could be reduced by as much as 1 mgd if two recent requests for non-potable reuse of wastewater by large- use customers are approved by Newport News Waterworks. Other similar opportunities for wastewater re-use could be investigated and encouraged by Newport News Waterworks.

I am required by law and regulation to consider project needs, impacts and alternatives and to permit no filling of waters of the United States, including wetlands, if there is a practicable alternative that would have less adverse impact on the aquatic ecosystem. As the projected 39.8 mgd deficit has not been adequately demonstrated and there are other alternatives available to meet the lower 17 mgd deficit, there does not appear to be a supportable, demonstrated need for the destruction of 431 acres of wetlands and the functions they perform in order to meet this smaller deficit.

The second critical issue leading to my position involves the cumulative adverse environmental impacts of the project, particularly the adverse effect to an American Indian minority population. The implementation of the proposed project would result in the loss of 1,526 acres of a highly diverse upland/wetland system (including 437 acres of wetlands) that provides high quality wildlife habitat as well as important water quality functions. The proposal would result in impacts to two federally listed threatened plant species and potentially adverse salinity changes to the nearly pristine, State-listed scenic Mattaponi River. Also, the project would indirectly and cumulatively impact 105 acres of wetlands and wildlife habitat downstream of the proposed dam as well as 0.8 miles of streambed below the proposed discharge point on Beaverdam Creek. The conversion of forested wetlands to emergent wetlands along the pipeline route would result in fragmentation of habitat for some interior forest species. The project would adversely affect 72 pre-historic archaeological sites that are potentially eligible for inclusion in the National Register of Historic Places. Furthermore, the project has the potential to impact a sacred site, traditional hunting, gathering and religious practices, subsistence fisheries, and the way of life of the Mattaponi, Pamunkey and Upper Mattaponi Indian Tribes. Because the proposed reservoir is located between Virginia's only two American Indian Reservations, and the proposed intake is located upstream of the Mattaponi Reservation, the project has the potential to result in disproportionately high and adverse environmental effects to this minority population as described by Executive Order 12898.

In summary, I must find that the proposed destruction of 437 acres of wetlands does not comply with the Environmental Protection Agency's 404 (b) (1) Guidelines published in Volume 48, Number 249 of the Federal Register, dated December 24, 1980 as other less environmentally damaging practicable alternatives to the proposed King William Reservoir are available to meet the future water needs of the lower Peninsula. Furthermore, the issuance of a permit would be contrary to the public interest because of the lack of a demonstrated need to destroy wetlands as well as the potential for cumulative environmental degradation and disproportionately high and adverse effects to an American Indian minority population.

I trust the information provided above has clearly outlined the rationale for my position on your application. You are invited to review the draft IWR report for technical or mathematical errors and submit to me within two weeks from the date of this letter any comments you wish me to consider for the preparation of my Record of Decision on your permit application.

Sincerely,
{signature}
Allan B. Carroll Colonel
U. S. Army District Engineer