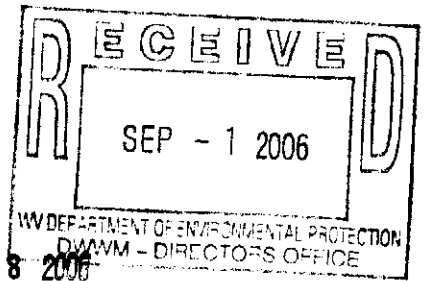




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029



AUG 28 2006

Ms. Lisa McClung, Director  
Water and Waste Management Division  
West Virginia Department of Environmental Protection  
601 57th Street, S.E.  
Charleston, West Virginia 25304

Dear Ms. McClung:

West Virginia submitted a complete package in support of a revision to its Requirements Governing Water Quality Standards (WQS regulations) to the U.S. Environmental Protection Agency (EPA), on May 23, 2005. The State submitted this revision for EPA review, pursuant to Section 303(c) (1) of the Clean Water Act (CWA) and 40 C.F.R. Part 131. The final rule was filed with the Secretary of States office on May 7, 2005 with an effective date of June 30, 2005.

The revision to the West Virginia WQS regulations adds Watkins Run in Preston County to be classified as a Water of Special Concern (Tier 2.5). Specifically the amendment adds the following language after the last sentence in the Subsection 4.1.c. of the WQS Regulations:

In addition to the Waters of Special Concern outlined in 60 CSR 5 - "Antidegradation Implantation Procedures," Appendix A, the following streams are classified as Waters of Special Concern:

4.1.c.1 Watkins Run (Preston County).

Pursuant to 40 CFR Part 131 Subpart C, EPA has reviewed the West Virginia WQS regulation. When reviewing regulations on Tier 2.5 waters, EPA finds that any additional requirements beyond that required by the federal regulation for waters with quality exceeding the levels to support aquatic life and recreation ("Tier 2" waters) are discretionary with the State. As long as any more stringently protected waters meet the requirements of 40 C.F.R. 131.12(a)(2) ("Tier 2") provisions, EPA's regulations provide that EPA will approve the provision. Thus EPA hereby approves the designation of the Watkins Runs as Tier 2.5 water (Water of Special Concern) as consistent with the Clean Water Act and its implementing regulation at 40 131.12 (a) (3).

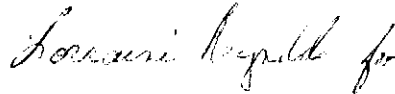
EPA notes that in addition to the Antidegradation Implementation Procedures, Appendix A listing Tier 2.5 waters, 47 CSR 2-4 Section 4.1.c.1 lists Watkins Run (Preston County) as Tier 2.5 water. For clarity, EPA recommends that West Virginia list all of the Tier 2.5 waters in its Antidegradation Implementation Procedures Appendix A.



Under the Endangered Species Act (ESA), EPA has the obligation to determine if our approval of this modification to West Virginia's Water Quality Standards regulation will adversely affect threatened and endangered species and their critical habitat in West Virginia. However, in regards to Anti-degradation, EPA has determined that it lacks relevant discretion to implement measures that would benefit species. Therefore, a consultation in this case is not required, as consistent with the ESA implementing regulation. See 50 C.F.R. Section 402.03.

If you have any questions concerning this letter please contact Ms. Cheryl Atkinson at (215) 814-3392.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jon M. Capacasa for".

Jon M. Capacasa, Director  
Water Protection Division