

Stephen M. Tomasik
DEC - Division of Environmental Permits
625 Broadway, 4th Floor, Albany, NY 12233-1750

January ___, 2015

Application ID: 0-9999-00181/00009 - Water Quality Certification
Application ID: 0-9999-00181/00013 - Stream Disturbance

Dear Mr. Tomasik,

Fish, especially baby trout, need a lot of dissolved oxygen (>7.0 mg/L) in their spawning streams.¹ They also need clear cold water, and will not survive if the water is too turbid (muddy), or too warm.²

However, construction in clay soils on steep slopes will cause a turbid runoff lowering the amount of oxygen in the water and smothering trout eggs in silt. Clear-cutting will warm those same trout spawning (C TS) waters. The FEIS admits as much noting that, "Temporary impacts on fisheries and aquatic resources, such as macroinvertebrates, from dry crossings would be stream bank disturbance, increased sedimentation and waterbody turbidity upon the return of flow to the stream following restoration, reduction in shading and cover, and modification of flow. These temporary impacts could cause physical damage to the gills of fish, disrupt food sources and predator/prey interactions, impact fish passage, increase ambient water temperature, degrade spawning and nursery habitat smother demersal eggs, and temporarily reduce reproduction potential."³

This blatant admission of future violations of our NYS Water Quality Standards is incompatible with DEC's lawful duty to enforce the Clean Water Act and protect those same standards.

Your job mandates protection of New York State water quality. To do this you must deny the 401 water quality certificate or hold Adjudicatory Hearings for this project.

Sincerely,

Signature

Name

Address

¹ WQS for dissolved oxygen, and turbidity, DEC Regulations, Chapter X, Divisions of Water, Part 703.3

² Narrative WQS table. DEC Regulations, Chapter X, Divisions of Water, Part 703.2

³ 02 Constitution_FEIS_Vol 2 Appendicies A - R.pdf (General Impacts and Mitigation, PDF pg 264, 4.6.2.3)