



**FRESHWATER MOLLUSK CONSERVATION SOCIETY
1417 HOFF INDUSTRIAL DR.
O'FALLON, MO 63366**

October 15, 2009

U.S. Army Corps of Engineers
CECW-CO (Attn: Ms. Desiree Hann)
441 G. Street N.W.
Washington, D.C. 20314

To Whom It May Concern,

On behalf of the membership of the Freshwater Mollusk Conservation Society (FMCS), we would like to submit support for the elimination of Nationwide Permit 21 (NW 21), allowing dredge and fill material associated with surface coal mining activities under the Clean Water Act.

Founded in 1998, FMCS is dedicated to the conservation of and advocacy for freshwater mollusks, North America's most imperiled animals. The membership of FMCS consists of state, federal, academic, and private biologists, many of whom work directly with the nearly 150 endangered and threatened mollusks, and are considered experts in their conservation and recovery.

We believe that existing regulations to protect streams in the Appalachian coal region are largely inadequate. Due to the sheer scale of surface mining that has occurred in the coal fields, any additional permits should be scrutinized in order to assess cumulative impacts to the streams in the region. Coal mining, and associated fill activities, has impacted or destroyed thousands of miles of streams in the Appalachians. It has directly contributed to the decline and loss of many species of freshwater mussels, fishes, and other aquatic organisms. Given these realities, it is unrealistic to grant wholesale permits as under NW 21 in the Appalachian coalfields. We vigorously support stronger review and scrutiny of new coal permits on an individual basis.

In addition, we would also suggest that the Corps work closely with the USFWS to avoid damage to Threatened and Endangered species listed under the ESA, as well as individual state agencies to avoid loss of state listed species, many of which are likely candidates to be listed under the federal Endangered Species Act due to the effects of coal mining. Beyond the elimination of NW 21 in the Appalachian coalfields, please consider an additional review process to further reduce and eliminate discharges into US waterways from dredge and fill material. By extension, we would recommend this include the elimination of mountaintop removal coal mining and any hollow fills from surface mining.

(cont.)

Please act to repeal NW 21 and require individual review of permit applications that will result in further damage to our streams, particularly from dredge and fill operations. While this is a laudable first step, many more statutory requirements are needed to avoid additional degradation of our already seriously jeopardized waterways.

Thank you for your considerations in this matter.

Sincerely,

A handwritten signature in cursive script that reads "W. Gregory Cope".

W. Gregory Cope, Ph.D.
President, Freshwater Mollusk Conservation Society

Cc: American Fisheries Society
North American Benthological Society
American Malacological Society