

**Problems with the permit which need to be corrected:**

1. The projection for lifting the triggers should be 790.5' instead of 795', after full pond has been reached. Staff has advised us that in the draft of the permit, a simple typographical error was made which will be corrected. We simply raise the point so that the record will reflect it. (see e-mail correspondence between Cole Poindexter & Joe Hassell from July 9, 2008). With the mistaken 795' in place, it could be argued that we would be frequently in trigger 3 mode during June, clearly not what the model intends.
2. The appropriate trigger model elevation for trigger 2 should be 789.5' (instead of 790') to greater equalize the negative recreational impacts on the riparian community. In exchange, in order to conserve water during the front end of dry periods when side flows are anemic, the maximum release required outside of striper spawn should be capped at 700 cfs even under normal times.
3. Should trigger 3 ever persist through a spring season (as the model projects it would have in 1981 & 2002), weekly 12 hour recreational releases of 650 cfs should be made from the end of striper spawn through Labor Day for Saturdays only, plus Memorial Day, July 4<sup>th</sup>, and Labor Day. To go a whole season without a single canoeing day while boating continues unabated on the lake is simply inequitable.
4. The permit needs to explicitly provide for river canoeing under Triggers 1 & 2 not only on weekends (as it does), but on the legal holidays of Memorial Day, July 4<sup>th</sup>, and Labor Day.
5. The draft permit continues to allow autocycle fluctuations in river levels, which are still too extreme in the vicinity of the dam, ranging up to 5 feet vertical, continuing to be a safety hazard, a cause of continuing sediment loss to the river, with attendant loss of property for riparian property owners, and desiccating the riverbed. In a related matter, the permit provides for no minimum instantaneous release. In current practice that amount is 74 cfs, which is far too little. The current permit (FERC) minimum instantaneous release is 60 cfs, again far too little. But this permit fails to provide any instantaneous minimum. Our preference is for continuous even releases. But barring that, an instantaneous minimum release of 350

cfs (source 1981-82 David Paylor Low Flow Study) would provide greater protection for streambed habitat in the vicinity of the dam & would minimize fluctuations in water levels below the dam, making for a safer human environment, less streambank erosion, & better aquatic habitat. Frankly, the best way to address this concern is to bring relief to the long suffering landowners in the Leesville community and require AEP to either install a continuous flow turbine generator or to spill water in a continuous stream to meet their discharge requirements. Such a requirement would satisfy the law and would not have any negative impact upon Smith Mountain or Leesville Lake stakeholders. In fact, spokesmen for the Smith Mountain Lake community have advocated the same simply because it is the right thing to do. AEP has recognized in the past that it is also the right thing to do. The loss of peaking revenue from Leesville Dam would be miniscule, particularly given that under the proposed permit, releases autocycle on an hourly basis anyway. Surely over the past 50 years AEP has made enough from this watershed, and caused enough damage to this watershed, that the cost of one continuous flow generator should be an insignificant capital expenditure as they proceed forward with a new permit.