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October 13, 2006

Ronald J. Mikulak, Chief
Wetlands Regulatory Section
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

RE: Public Notice #MVM-2004-857 (RSA), Tennessee DOT
SR 21 road widening & new Reelfoot Spillway and bridge.
Lake and Obion Counties, Tennessee; and your July 26, 2006
letter to the Army Corps of Engineers, Memphis District

Dear Mr. Mikulak:

We are in receipt of the above referenced letter via a FOIA request made to the Army Corps of Engineers (ACOE) several weeks ago. We are very concerned with the proposed construction of the new Reelfoot Lake Spillway and Bridge, and we have actively participated in the public comment period through representatives. This project is funded in whole or in part by federal funds.

There are multiple issues involved with this proposed project that come within the jurisdiction of at least three federal agencies: ACOE, FHWA and USFWS and two state agencies, TDEC and TWRA. Your letter commenting that the proposed project does not comply with Section 404(b)(1) guidelines and suggesting that the ACOE require the applicant to "submit a more complete and detailed alternatives analysis and mitigation plan" is very encouraging. To date, the ACOE and TDEC have held a public hearing on the above referenced public notice and since that time, the ACOE has submitted a number of pertinent questions to TDOT arising from public comment and its own investigations. As of our latest information, earlier this week, TDOT has not responded to those questions and the ACOE permit has not yet issued even in draft form.

We want you to know that Reelfoot Lake is a very significant reservoir in Northwest Tennessee. It is declared to be Outstanding National Resource Waters T.N.R. § 1200-4-3-.06(4)(f), and Tier III T.N.R. § 1200-4-3-.06(2) by the TDEC. It is also a U.S. National Natural Landmark, declared in May 1966. It includes a U.S. National Wildlife Refuge managed by the USFWS since 1941 and part of which extends into Kentucky; a State Wildlife Management Area, managed by TWRA; and a State Natural Area, managed by TDEC. Additionally, Reelfoot Lake is declared by the Tennessee General Assembly as a Class I Scenic Recreation Area, TCA S. 11-14-108(b)(1), and a state Natural Resource Recreation Area and a state Wildlife Observation Area. Finally, it is

recognized as a Tennessee Rare Plant Protection Area by the Rare Plant Protection and Conservation Act of 1985.

In September 1999, the ACOE completed a Final Feasibility Report and EIS relative to Reelfoot Lake. That EIS was never approved by the Corps and no Record of Decision ever issued. Nevertheless, on page 3 of the Executive Summary, the Corps noted that *“Reelfoot Lake is a nationally significant and unique natural resource. It is the largest natural freshwater lake in Tennessee and one of the largest in the country. The lake provides nesting and feeding habitat for the Bald Eagle, a threatened species, while providing one of the most highly productive fisheries in the area.”* The EIS goes on to note that Reelfoot lays in the Mississippi Flyway and has been identified a “priority habitat range” by the North American Waterfowl Management Plan, an international treaty between the U.S. Canada and Mexico. Additionally, because of the presence of the Bald Eagle and likely other predator waterfowl, the Migratory Bird Treaty Act and the Bald Eagle Act would apply protective status to this reservoir.

We are writing to make you aware of the significance of this reservoir in Tennessee and encourage your continued oversight pursuant to the authority granted in CWA section 404(b)(c) and the MOA by and between the EPA and the ACOE effective on February 7, 1990, through the draft permit stage. We, together with a number of lakefront owners and other residents in Lake and Obion Counties, will also remain vigilant but we fear that without EPA oversight, the permits sought will become a reality to the harm of not only the reservoir and its protected habitats, but to the many residents in the immediate area, and ultimately compromising a natural resource of national importance.

Should you have any questions or require more information from us, please don't hesitate to call or email me. We are most concerned with impacts of the proposed project not only on the permanent loss of wetlands designated as Outstanding National Resource Waters and stream admitted in the applications, but many secondary and cumulative impacts not addressed to date by the applicant.

Sincerely,

Renée Victoria Hoyos
Executive Director