Marion Hopkins/R4/USEPA/US
03/11/2009 10:58 AM

To Rebecca Fox/R4/USEPA/US@EPA
cc
bcc
Subject Re: Fw: PCS

The areas are "conditionally approved" - I think this means, generally, that they're closed based on a given rainfall amount and certain time period associated with that rainfall, then DEH goes out to sample after that period is up to make sure it's clean again. So then the area is open. Yes - if the EIS says they're no longer impaired that is incorrect. DWQ still considers them impaired.

Marion Hopkins
U.S. EPA Region 4
Water Protection Division
Water Quality Planning Branch
Monitoring & Information Analysis Section
404/562-9481
Rebecca Fox/R4/USEPA/US

Rebecca Fox/R4/USEPA/US
03/11/2009 09:38 AM

To Marion Hopkins/R4/USEPA/US@EPA
cc
Subject Re: Fw: PCS

Thanks Marion,

Our briefing has been moved to today at 1:30 so don't have time to delve into this too much right now. So are those areas still closed to shellfishing? It's misleading in the EIS to say they are removed from 303 d list like there is no longer a problem... Will talk to you later when I have more time. Thanks again! b

Becky Fox
Wetland Regulatory Section
USEPA
Phone: 828-497-3531
Email: fox.rebecca@epa.gov
Marion Hopkins/R4/USEPA/US

Marion Hopkins/R4/USEPA/US
03/11/2009 09:26 AM

To Rebecca Fox/R4/USEPA/US@EPA
cc
Subject Re: Fw: PCS

Becky,
DWQ created a new state-wide category for their 2008 list that effectively "delisted" over 36,000 acres of shellfish waters. The new category, which they call "4cs" is, in their words, "used for shellfish harvesting waters where there is no current fecal coliform data or the data available does not indicate a standards violation. This was in response to

One commenter was concerned and puzzled by the proposed removal of over 35,000 acres of impaired shellfish waters from the Draft 2008 303(d) list. Most of these waters are conditionally approved. Much of the bacterial contamination comes from human-induced sources, such as stormwater. The reason given for the de-listing of most of the waters is "Documentation that the state included on a previous section 303(d) list an impaired segment that was not required to be listed by EPA regulations." The commenter found this explanation to be unclear, and respectfully requested a more detailed response as to the reasons for delisting these waters when they will clearly continue to be "impaired" and therefore will not be meeting their designated use of a harvestable shellfish resource.

Response: The analysis of data provided by the NC DEH Shellfish Sanitation section for some of the impaired segments (or assessment units (AUs)) does not indicate that there is an exceedance of the North Carolina Division of Water Quality (DWQ) Surface Water Standard for shellfish harvesting areas in Class SA waters. This water quality standard is not used to classify growing areas as prohibited, conditionally approved, or approved. NC DEH operates its monitoring program under guidelines outlined in the National Shellfish Sanitation Program's (NSSP's) Guide for the Control of Molluscan Shellfish. When a condition or event occurs that impacts the open status of waters, DEH closes those waters to protect public health. The purpose of the monitoring performed by the DEH Shellfish Sanitation program is to protect public health and therefore, to determine when waters are again safe for shellfishing. For this reason, evaluation of the DEH Shellfish Sanitation water quality data will not always indicate an exceedance of the standard, and in these cases, Category 5 listing is not appropriate. For DWQ's purposes, these waterbodies, or AUs, will still be considered impaired based on DEH's closure policy, and they will be moved from Category 5 (requiring a TMDL) to Category 4cs in the DWQ's Integrated Report to the US EPA. If waterbodies in Category 4cs are later found to have water quality standards violations based on monitoring data, these AUs will be moved to Category 5 requiring development of a TMDL. In the future, data should include samples collected immediately after a rainfall event causing closure of waterbodies. DWQ has also had problems identifying waters because different agencies are using different base maps. A common and accurate base map will greatly enhance the efficiency of data exchange and the accuracy of identifying impaired waters.

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Rebecca Fox/R4/USEPA/US
03/10/2009 02:41 PM

To Marion Hopkins/R4/USEPA/US@EPA

PAMLICO RIVER AND PAMLICO SOUND	29-(40.5)b	SA	03-03-08			7	
CEH closed areas at mouth of Middleton Creek					CH	2006	7 Shellfish harvesting closure: Fecal coliform
PAMLICO RIVER AND PAMLICO SOUND	29-(40.5)c	SA	03-03-08			7	
CEH closed areas at mouth Long Creek					CH	2006	7 Shellfish harvesting closure: Fecal coliform
PAMLICO RIVER AND PAMLICO SOUND	29-(40.5)d	SA	03-03-08			7	
CEH closed areas at mouth Far Creek					CH	2006	7 Shellfish harvesting closure: Fecal coliform
PAMLICO RIVER AND PAMLICO SOUND	29-(40.5)e	SA	03-03-08			7	
CEH closed areas adjacent to Oriacoke					CH	2006	7 Shellfish harvesting closure: Fecal coliform
South Creek	29-28-(6.5)	SA NSW	03-03-07			5	
From Deephole Point to Pamlico River					CH	2006	5 Shellfish harvesting closure: Fecal coliform

BTW, this is some information I gave Chris Hoberg last year (for his letter) about future TMDLs:

** TMDLs – Segments of the Pamlico River in the vicinity of the PCS Phosphates facility are currently listed (or proposed for listing) as Clean Water Act Section 303(d) "impaired" waterbodies. The identified pollutant of concern is chlorophyll-a, which triggers the need for development of Total Maximum Daily Loads (TMDLs) for the nutrients Total Phosphorus (TP) and Total Nitrogen (TN). These TMDLs will developed as part of comprehensive studies by the State and will be approved by EPA Region 4. The studies will include a detailed "source assessment" of existing and potential sources of TN and TP, and ultimately will set limits for both Point and Nonpoint sources, including all stormwater discharges.*

These TMDLs thus have the potential to affect and possibly limit future mining related discharges into the impaired receiving waters. Page 4-100 of the FEIS indicates that there are a limited number of water quality parameters that will be of potential concern from reclaimed areas, including Phosphorus, Fluoride, Suspended Solids, and Metals. Of these four, it is anticipated that only Phosphorus will actually be covered by a TMDL.

We are aware that monitoring is being conducted as part of the Applicant's existing State National Pollutant Discharge Elimination (NPDES) permit and that pollutant concentrations in existing stormwater runoff appear to be relatively low for the ongoing mining, although the operation is not a zero discharge facility. It is our understanding that after on-site stormwater at PCS Phosphates meets a certain water quality it will no

longer enter the plant site recycle system, but instead will be directed either to the Pamlico River (through the NPDES permitted and monitored Outfalls 009 or 101) or allowed to re-enter the individual creek systems.

Therefore, while nutrient discharges are not currently a major concern, the Applicant should be advised that once nutrient TMDLs are developed by the State and approved by EPA Region 4, the existing and proposed mining activities will need to be compliant with those daily load limitations for the impaired segments of the Pamlico River and its tributaries.

Rebecca Fox/R4/USEPA/US

Rebecca Fox/R4/USEPA/US
03/10/2009 01:02 PM

To Paul Gagliano/R4/USEPA/US@EPA
cc
Subject Re: DEIS Western Wake

Information Redacted pursuant to
5 U.S.C. Section 552 (b)(5), Exemption 5,
Privileged Inter/Intra Agency Document
Specific Privilege: Deliberative Process Privilege

NOAA - Response

Non-Responsive