



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

March 17, 2009

Colonel Jefferson M. Ryscavage
District Engineer
Wilmington District
U.S. Army Corps of Engineers
P.O. Box 1890
Wilmington, North Carolina 28402-1890

Subject: Recommendation to Request a Higher Level Review for Department of Army Permit AID 200110096, Potash Corporation of Saskatchewan Phosphate Division, Aurora Operation (PCS) Mine Continuation

Dear Colonel Ryscavage:

We have received your Notice of Intent to Proceed on the proposed Department of the Army Permit AID 200110096, the Aurora Operation (PCS) Mine Continuation, dated February 24th and received at EPA Region 4 on March 2, 2009. Pursuant to paragraph 3(d)(2) of the Memorandum of Agreement (MOA) between the EPA and the Department of Army, under Clean Water Act Section 404(q) Part IV, I am requesting review of this permit by the Acting Assistant Administrator of EPA's Office of Water, and recommending that he request review of the permit by the Assistant Secretary of the Army for Civil Works. During this review, the permit should be held in abeyance pending completion of the review process pursuant to the MOA Part IV, paragraph 3(e).

EPA remains concerned that the proposed project will result in unacceptable adverse impacts to aquatic resources of national importance, including direct and indirect impacts to waters of the U.S. which support the Albemarle Pamlico National Estuary Program area. The proposed project will have direct impacts to 3,953 acres of wetlands and 25,727 linear feet of stream, including a portion of a designated Significant Natural Heritage Area. The impacts also include a loss of approximately 70 percent of the watershed areas within the proposed project boundaries. Based on EPA's review of the economic analysis included in the project's Final Environmental Impact Statement, we continue to believe that there are less environmentally damaging practicable alternatives for mining the project site that would avoid and minimize impacts to important wetland and stream resources. In addition to the need to further avoid and minimize impacts to the site's high value aquatic resources, there are concerns regarding the adequacy of the proposed compensatory mitigation to offset any authorized impacts.

We recognize the desire for timely decision-making on this permit. We have worked closely with your staff and have offered our comments throughout the Environmental Impact Statement and 404 permitting process, and we appreciate the efforts by both you and the applicant to address them. Still, critical issues about the impact of this project remain unresolved, and based on the concerns cited above, we do not support issuance of the permit for this project as currently proposed. Therefore, pursuant to the procedures and timelines in the national 1992 Memorandum of Agreement with the Corps of Engineers, we are seeking review by the EPA Office of Water and the Assistant Secretary for Civil Works.

Please contact Jim Giattina, Director, Water Protection Division, at (404) 562-9470 for further information, and we look forward to continuing to stay in touch as we proceed.

Sincerely,

A handwritten signature in black ink, appearing to read 'AS Meiburg', written over a faint, illegible typed name.

A. Stanley Meiburg
Acting Regional Administrator

Enclosure: Distribution List

Recommendation to Request a Higher Level Review for Department of Army
Permit AID 200110096, Potash Corporation of Saskatchewan Phosphate Division,
Aurora Operation (PCS) Mine Continuation Distribution List:

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