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cc

bcc

Subject PCS Phosphate

History:

☞ This message has been replied to.

Not responsive - redacted

EPA, Environmental Groups Seek New Review Of Proposed North Carolina Mine Expansion

RALEIGH, N.C.—Environmental Protection Agency Region 4 has requested a higher level of federal review of the environmental impacts of a proposed mine expansion in eastern North Carolina, a spokeswoman for the office told BNA March 26.

According to Dawn Harris-Young, A. Stanley Meiburg, the acting regional administrator, has requested a higher level review of permits for a proposed mine expansion by PCS Phosphate. Environmental groups, which have administratively challenged the state's certification of the project, called it a "rare decision."

Meiburg said in a March 17 letter to Col. Jefferson M. Ryscavage, district engineer for the U.S. Army Corps of Engineers, that his agency "remains concerned that the proposed project will result in unacceptable adverse impacts to aquatic resources of national importance," and asked that the permit be reviewed by the assistant secretary of the army for civil works.

In the letter, Meiburg said he was requesting review by EPA's assistant administrator for water as well.

Harris-Young said the request to elevate the PCS Phosphate permit review "does not seem to be related" to the broad review of permits for mountaintop removal mining EPA recently announced (40 ER 697, 3/27/09).

According to information posted on the corps' website, PCS Phosphate has applied for a permit to expand its mining operations in Beaufort County, N.C., by about 11,909 acres over a period of approximately 37 years. A final environmental impact statement was issued by the corps for public comment in May 2008.

Meiburg said in his letter that the proposed expansion would have direct impact on 3,953 acres of wetlands and 25,727 linear feet of surface water. "The impacts also include a loss of approximately 70 percent of the watershed areas within the proposed project boundaries," he said.

"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 wetland and stream resources," Meiburg said. He also said in the March 17 letter requesting a higher-level review that his agency had concerns about the compensatory mitigation proposed by the company to offset environmental impacts.

"[W]e do not support the issuance of the permit for this project as currently proposed," Meiburg said in his letter.

Tom Pasztor, senior director of corporate and government relations for PCS Phosphate's parent company PotashCorp, told BNA that EPA had indicated it may not accept the corps' draft record of decision.

EPA has proposed a "boundary change in the plan which would reduce the mineable area and add considerable costs," according to Pasztor. "PCS is obviously disappointed with EPA's response, particularly given our commitment to environmental stewardship and our track record in this regard," he said.

Pasztor told BNA that the mining company has been working with the Corps for more than eight years on the permit and will continue to work closely with regulators.

Administrative Challenge Filed

The proposed expansion also is being administratively challenged by environmental groups.

According to Geoff Gisler, an attorney with the Southern Environmental Law Center (SELC), his group filed its challenge with the North Carolina Office of Administrative Hearings on March 12. Gisler told BNA that the challenge—filed by SELC on behalf of a number of environmental groups—claims the state Division of Water Quality illegally approved the mine expansion. Gisler told BNA March 27 that, in January 2009, state regulators provided a Clean Water Act Section 401 certification that the proposed expansion of mining operations met state water quality requirements. The state's 401 certification is required prior to the corps' issuance of a Clean Water Act Section 404 permit for the activity, he said. SELC says that the certification was improper, as state regulators presumed a rewrite of mitigation requirements to accommodate the project, according to Gisler. State regulators also did not properly consider practical alternatives to the plan and did not project its impacts over the entire expansion period, he said.

“We're not trying to shut down the mine,” Gisler told BNA. The proposed expansion “can be done in a way that can protect wetlands, but this is not it,” he said.

According to Gisler, other areas around the mining operation that contain “very few” wetlands are among the alternative approaches that PCS Phosphate could take.

By Andrew M. Ballard

Information related to federal consideration of PCS Phosphate's mining expansion plans is available from the U.S. Army Corps of Engineers at <http://www.saw.usace.army.mil/WETLANDS/Projects/PCS/index.html>.