

Stan Meiburg/R4/USEPA/US  
05/06/2009 05:22 PM

To "Smith, Chip R Mr CIV USA ASA CW"  
<Chip.Smith@HQDA.Army.Mil>  
cc Jim Giattina/R4/USEPA/US@EPA  
bcc  
Subject RE: PCS

Thank you, Chip.

My direct line after hours is (404) 562-9981; I'll be here until about 6:30. After that, I can be reached on my cell phone--(404) 435-4234.

Also, given other interactions (and that formally this is a response to the elevation from the AA-Water), Rock might want to call Bob Sussman and/or Mike Shapiro.

Stan

A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

"Smith, Chip R Mr CIV USA ASA CW" <Chip.Smith@HQDA.Army.Mil>



"Smith, Chip R Mr CIV USA  
ASA CW"  
<Chip.Smith@HQDA.Army.Mi  
l>  
05/06/2009 04:47 PM

To Jim Giattina/R4/USEPA/US@EPA  
cc Stan Meiburg/R4/USEPA/US@EPA  
Subject RE: PCS

Thanks. We brief Rock Salt at 5:30. We'll see how it goes. I will let you know and recommend that Rock all Stan.

-----Original Message-----

From: Giattina.Jim@epamail.epa.gov [mailto:Giattina.Jim@epamail.epa.gov]  
Sent: Wednesday, May 06, 2009 8:57 AM  
To: Smith, Chip R Mr CIV USA ASA CW  
Cc: Stan Meiburg  
Subject: Re: PCS

Chip...thanks for the email. I left a message for you just a few minutes ago. I'm participating in a meeting with our State Commissioners, but I can take a call. My number is 404-394-2520. I look forward to hearing from you...Jim  
Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: "Smith, Chip R Mr CIV USA ASA CW" [Chip.Smith@HQDA.Army.Mil]  
Sent: 05/05/2009 06:48 PM AST  
To: Jim Giattina  
Subject: PCS

I would like to speak with you in the morning if possible. Just finished talking to Rock and he suggested that I speak with you for clarification on a few points. Please let me know if we can talk and what number to call.  
Thanks.

Chip Smith  
Office of the Assistant Secretary of the Army (Civil Works) Assistant for  
Environment, Tribal and Regulatory Affairs  
108 Army Pentagon 3E427  
Washington, D.C. 20310-0108  
703-693-3655 Voice  
703-839-0389 Cell  
703-697-8433 Fax

Stan Meiburg /R4/USEPA/US  
05/10/2009 04:00 PM

To "Gen. Todd Semonite" <todd.semonite@us.army.mil>  
cc "Les Dixon" <Lester.S.Dixon@usace.army.mil>  
bcc  
Subject PCS

Had a helpful call with DASA Salt this afternoon. He OK'd conference call idea, to clarify views. I look forward to talking with Jeff Ryscavage in the morning to set this up, hopefully quickly tomorrow.

Best regards,

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

Stan Meiburg /R4/USEPA/US  
05/10/2009 01:33 PM

To "Rock Salt" <rock.salt@us.army.mil>  
cc  
bcc Bob Sussman/DC/USEPA/US@EPA; "Mike Shapiro"  
<shapiro.mike@epa.gov>  
Subject PCS

Rock, I am sorry to bother you on a Sunday, and Mother's Day, no less, but there are some decisions I will have to make Monday morning and would appreciate your counsel. My particular concern is the decision not to authorize a meeting of the Federal agencies. Is there a good time and number for me to call you this afternoon?

In the alternative, I will be home all afternoon. My home number is [REDACTED] and my cell is (404) 435-4234.

Thanks for your assistance.

Best regards,

Stan Meiburg  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

Exemption 6 Personal Privacy



Sam\_Hamilton@fws.gov  
05/09/2009 10:53 AM

To Stan Meiburg/R4/USEPA/US@EPA  
cc  
bcc  
Subject Re: Note from Les; PCS Phosphate 404q Meeting

Stan,

Give me a call if you want to visit this weekend. I'm travelling all next week. Sam

**From:** Meiburg, Stan  
**Sent:** 05/09/2009 10:30 AM AST  
**To:** "Dixon, Lester S SAD" <Lester.S.Dixon@usace.army.mil>; Sam Hamilton; "Roy Crabtree" <Roy.Crabtree@noaa.gov>  
**Cc:** "Semonite, Todd T BG SAD" <Todd.T.Semonite@usace.army.mil>; "Col. Jeff Ryscavage" <Jefferson.Ryscavage@us.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>; "Jim Giattina" <giattina.jim@epa.gov>; Welborn, Tom@epamail.epa.gov; "Mike Shapiro" <shapiro.mike@epa.gov>; Sussman, Bob@epamail.epa.gov; "Scott Gordon" <gordon.scott@epa.gov>; "Gregory Peck" <peck.gregory@epa.gov>  
**Subject:** Re: Note from Les; PCS Phosphate 404q Meeting

Les, I'm sorry I couldn't get back to you yesterday afternoon--I fell victim while on travel to a pretty nasty virus. I know you talked with Scott Gordon and he passed on the gist of your conversations.

As Scott conveyed, I'm deeply disappointed in this approach. For a whole variety of reasons I think it is inappropriate. We'll be considering what to do on Monday.

Thank you for your assistance and for passing on this information.

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

**From:** "Dixon, Lester S SAD" [Lester.S.Dixon@usace.army.mil]  
**Sent:** 05/08/2009 04:49 PM AST  
**To:** Stan Meiburg; <Sam\_Hamilton@fws.gov>; <Roy.Crabtree@noaa.gov>  
**Cc:** "Semonite, Todd T BG SAD" <Todd.T.Semonite@usace.army.mil>; "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>

**Subject:** Note from Les; PCS Phosphate 404q Meeting

Stan, Sam, and Roy

Earlier I sent you a note stating I planned to hold a Federal agency only premeeting on the subject permit.

The purpose of this note is to advise you that a separable meeting is no longer planned. The intent is for the Corps to hold a single 404q meeting to be open, transparent, and all inclusive, in order to accomplish the aggressive schedule and prevent isolation of any parties on an issue.

Please call me if you have any questions.

Sincerely

Les  
404 606 0816

Stan Meiburg /R4/USEPA/US  
05/09/2009 10:30 AM

To "Dixon, Lester S SAD" <Lester.S.Dixon@usace.army.mil>, "Sam Hamilton" <sam\_hamilton@fws.gov>, "Roy Crabtree" <Roy.Crabtree@noaa.gov>  
cc "Semonite, Todd T BG SAD" <Todd.T.Semonite@usace.army.mil>, "Col. Jeff Ryscavage" <Jefferson.Ryscavage@us.army.mil>, "Middleton, Arthur L"  
bcc  
Subject Re: Note from Les; PCS Phosphate 404q Meeting

Les, I'm sorry I couldn't get back to you yesterday afternoon--I fell victim while on travel to a pretty nasty virus. I know you talked with Scott Gordon and he passed on the gist of your conversations.

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Stan  
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Acting Regional Administrator  
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Sent using Blackberry

**From:** "Dixon, Lester S SAD" [Lester.S.Dixon@usace.army.mil]  
**Sent:** 05/08/2009 04:49 PM AST  
**To:** Stan Meiburg; <Sam\_Hamilton@fws.gov>; <Roy.Crabtree@noaa.gov>  
**Cc:** "Semonite, Todd T BG SAD" <Todd.T.Semonite@usace.army.mil>; "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>  
**Subject:** Note from Les; PCS Phosphate 404q Meeting

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prevent isolation of any parties on an issue.

Please call me if you have any questions.

Sincerely

Les  
404 606 0816



Stan Meiburg /R4/USEPA/US  
05/09/2009 02:44 PM

To "Gen. Todd Semonite" <todd.semonite@us.army.mil>  
cc  
bcc "Les Dixon" <Lester.S.Dixon@usace.army.mil>  
Subject PCS

Todd, hope you're having a good afternoon and making some headway on settling in.

I tried to reach you this afternoon on your cell to discuss the state of play on the PCS process, particularly on a Feds-only meeting. Either I or one of my topside folks is happy to call Rock, but I didn't feel right doing this without talking to you first. I had considered coming by to see you first thing Monday morning but thought that given the speed of movement that a call today might be better.

I am at home--can be reached there at [REDACTED] or on my cell at (404) 435-4234.

Best regards,

Stan Meiburg  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Exemption 6 Personal Privacy

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry



Sam\_Hamilton@fws.gov  
05/08/2009 04:58 PM

To "Les Dixon" <Lester.S.Dixon@USACE.Army.mil>, Stan Meiburg/R4/USEPA/US@EPA, "Dr. Roy Crabtree" <roy.crabtree@noaa.gov>  
cc "Semonite, Todd T BG SAD" <Todd.T.Semonite@usace.army.mil>, "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>, bcc

Subject Re: Note from Les; PCS Phosphate 404q Meeting

History: This message has been replied to.

Understood

**From:** "Dixon, Lester S SAD" [Lester.S.Dixon@usace.army.mil]  
**Sent:** 05/08/2009 04:49 PM AST  
**To:** <Meiburg.stan@epa.gov>; Sam Hamilton; <Roy.Crabtree@noaa.gov>  
**Cc:** "Semonite, Todd T BG SAD" <Todd.T.Semonite@usace.army.mil>; "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>  
**Subject:** Note from Les; PCS Phosphate 404q Meeting

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Please call me if you have any questions.

Sincerely

Les  
404 606 0816



Roy Crabtree  
<Roy.Crabtree@noaa.gov>  
05/08/2009 05:05 PM

To "Dixon, Lester S SAD" <Lester.S.Dixon@usace.army.mil>  
cc Stan Meiburg/R4/USEPA/US@EPA,  
Sam\_Hamilton@fws.gov, "Semonite, Todd T BG SAD"  
<Todd.T.Semonite@usace.army.mil>, "Ryscavage,  
bcc  
Subject Re: Note from Les; PCS Phosphate 404q Meeting

Thanks Les, I'll let our folks know.

Dixon, Lester S SAD wrote:

>  
> Stan, Sam, and Roy  
>  
> Earlier I sent you a note stating I planned to hold a Federal agency  
> only premeeting on the subject permit.  
>  
> The purpose of this note is to advise you that a separable meeting is  
> no longer planned. The intent is for the Corps to hold a single 404q  
> meeting to be open, transparent, and all inclusive, in order to  
> accomplish the aggressive schedule and prevent isolation of any  
> parties on an issue.  
>  
> Please call me if you have any questions.  
>  
> Sincerely  
>  
> Les  
> 404 606 0816  
>



"Dixon, Lester S SAD"  
<Lester.S.Dixon@usace.army  
.mil>

05/08/2009 04:49 PM

To Stan Meiburg/R4/USEPA/US@EPA,  
<Sam\_Hamilton@fws.gov>, <Roy.Crabtree@noaa.gov>  
cc "Semonite, Todd T BG SAD"  
<Todd.T.Semonite@usace.army.mil>, "Ryscavage,  
Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>,  
bcc

Subject Note from Les; PCS Phosphate 404q Meeting

History:  This message has been replied to.

Stan, Sam, and Roy

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Please call me if you have any questions.

Sincerely

Les  
404 606 0816



"Walker, William T SAW"  
<William.T.Walker@usace.army.mil>

05/08/2009 12:49 PM

To <Pete\_Benjamin@fws.gov>

cc "Middleton, Arthur L SAD"

<Arthur.L.Middleton@usace.army.mil>, "Lamson, Brooke

SAW" <Brooke.Lamson@usace.army.mil>, "Lekson, David

bcc

Subject RE:

History:

➤ This message has been replied to and forwarded.

All,

I think all appropriate persons are copied here but if not, please forward. The meeting will be held at our Falls of the Neuse Visitor Assistance Center (VAC). The facility is located North of Raleigh off Falls of the Neuse Road. The following link contains information on the center and directions:

[http://www.saw.usace.army.mil/Falls/maps\\_&\\_directions.htm](http://www.saw.usace.army.mil/Falls/maps_&_directions.htm)

From the RDU Airport, take I-540 E to Falls of the Neuse Road (I think exit 14). Exit North a proceed approximately 2.5 miles. Entrance to VAC is on left.

If traveling from the west on I-40, take I-540 E (exit 283) to Falls of the Neuse Road (I think exit 14). Exit North a proceed approximately 2.5 miles. Entrance to VAC is on left.

If traveling from the east on I-40, take I-440 outer loop to Exit 11, Capital Blvd (US 1/401) N. Continue on Capital Blvd. to I-540. take I-540 west to Falls of the Neuse Road (I think exit 14). Exit North a proceed approximately 2.5 miles. Entrance to VAC is on left.

If traveling from the east on US-64, take I-540 west to Falls of the Neuse Road (I think exit 14). Exit North a proceed approximately 2.5 miles. Entrance to VAC is on left.

The meeting will begin at 1000. I will forward more specifics on the agenda as they develop. If you have any questions, feel free to give me a call.

Thanks

Tom Walker

(910) 251-4631

-----Original Message-----

From: Pete\_Benjamin@fws.gov [mailto:Pete\_Benjamin@fws.gov]

Sent: Friday, May 08, 2009 11:45 AM

To: Walker, William T SAW

Cc: Middleton, Arthur L SAD; Lamson, Brooke SAW; Lekson, David M SAW; Fox.Rebecca@epamail.epa.gov; ghouse@brookspierce.com; Ryscavage, Jefferson COL SAW; Moyer, Jennifer A HQ02; JFurness@Pcsphosphate.com;

Meiburg.stan@epa.gov; Mike Wicker; Pace.Wilber; smtp-Sechler, Ron;

Roy.Crabtree@noaa.gov; RSmith@Pcsphosphate.com; Jolly, Samuel K SAW;

Sam\_Hamilton@fws.gov; Welborn.Tom@epamail.epa.gov

Subject: Re:

Hi Tom,

Look's like I am available on the 12th. I don't know if y'all have settled on a meeting place yet, but if you need it our conference room is available. Just let me know.

Pete Benjamin  
Field Supervisor  
Raleigh Field Office  
U.S. Fish and Wildlife Service  
(919) 856-4520 x 11

"Walker, William T SAW" <William.T.Walker@usace.army.mil>

05/07/2009 01:33 PM To  
<Roy.Crabtree@noaa.gov>, <Sam\_Hamilton@fws.gov>, <Meiburg.stan@epa.gov>,  
<Welborn.Tom@epamail.epa.gov>, <Fox.Rebecca@epamail.epa.gov>, "Ron Sechler"  
<ron.sechler@noaa.gov>, "Pace Wilber" <Pace.Wilber@noaa.gov>,  
<pete\_benjamin@fws.gov>, "Mike Wicker" <Mike\_Wicker@fws.gov>,  
<RSmith@Pcsphosphate.com>, <JFurness@Pcsphosphate.com> cc "Ryscavage,  
Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>, "Jolly, Samuel K SAW"  
<Samuel.K.Jolly@usace.army.mil>, "Lekson, David M SAW"  
<David.M.Lekson@usace.army.mil>, "Lamson, Brooke SAW"  
<Brooke.Lamson@usace.army.mil>, <ghouse@brookspierce.com>, "Moyer, Jennifer A  
HQ02" <Jennifer.A.Moyer@usace.army.mil>, "Middleton, Arthur L SAD"  
<Arthur.L.Middleton@usace.army.mil>  
Subject

All,

As most of you are probably aware, Mr. Salt (ASA-CW) rendered his decision on EPA's 404(q) elevation request regarding PCS Phosphate, late yesterday evening. I have attached here, the final documents for any of you that may not have received them as of yet. One of Mr. Salt's directives was that the Corps work with EPA Region 4, USFWS, NMFS and PCS over the next 10 days to explore the practicability of further minimization within the headwater areas of Jacks Creek, Jacobs Creek and Porter Creek.

To that end, I believe Mr. Les Dixon (USACE South Atlantic Division) has been in contact with EPA, NMFS and USFWS Regional Directors. Col Ryscavage has asked that I also contact each of you and inquire as to your availability for a meeting next week. We currently propose to meet next Tuesday, 12 May, to discuss minimization opportunities. The meeting will likely take place in Raleigh since that seems to be logistically central. Please let me know as soon as possible, whether you can be available.

Thanks

Tom Walker  
(910) 251-4631

<<FINAL Reply to EPA.pdf>> <<FINAL Conditions.pdf>> <<FINAL Staff Assessment.pdf>> [attachment "FINAL Reply to EPA.pdf" deleted by Pete Benjamin/R4/FWS/DOI] [attachment "FINAL Conditions.pdf" deleted by Pete Benjamin/R4/FWS/DOI] [attachment "FINAL Staff Assessment.pdf" deleted by Pete Benjamin/R4/FWS/DOI]



Pete\_Benjamin@fws.gov  
05/08/2009 11:45 AM

To "Walker, William T SAW"  
<William.T.Walker@usace.army.mil>  
cc "Middleton, Arthur L SAD"  
<Arthur.L.Middleton@usace.army.mil>, "Lamson, Brooke  
SAW" <Brooke.Lamson@usace.army.mil>, "Lekson, David  
bcc  
Subject Re:

Hi Tom,

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Pete Benjamin  
Field Supervisor  
Raleigh Field Office  
U.S. Fish and Wildlife Service  
(919) 856-4520 x 11

"Walker, William T  
SAW"  
<William.T.Walker@usa  
ce.army.mil>

05/07/2009 01:33 PM

To <Roy.Crabtree@noaa.gov>, <Sam\_Hamilton@fws.gov>, <Meiburg.stan@epa.gov>, <Welborn.Tom@epamail.epa.gov>, <Fox.Rebecca@epamail.epa.gov>, "Ron Sechler" <ron.sechler@noaa.gov>, "Pace.Wilber" <Pace.Wilber@noaa.gov>, <pete\_benjamin@fws.gov>, "Mike Wicker" <Mike\_Wicker@fws.gov>, <RSmith@Pcsphosphate.com>, <JFurness@Pcsphosphate.com>  
cc "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>, "Jolly, Samuel K SAW" <Samuel.K.Jolly@usace.army.mil>, "Lekson, David M SAW" <David.M.Lekson@usace.army.mil>, "Lamson, Brooke SAW" <Brooke.Lamson@usace.army.mil>, <ghouse@brookspierce.com>, "Moyer, Jennifer A HQ02" <Jennifer.A.Moyer@usace.army.mil>, "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>

Subj  
ect

All,

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"Pace.Wilber"  
<Pace.Wilber@noaa.gov>  
05/08/2009 09:58 AM

To "Walker, William T SAW"  
<William.T.Walker@usace.army.mil>  
cc Stan Meiburg/R4/USEPA/US@EPA, Tom  
Welborn/R4/USEPA/US@EPA, Rebecca  
Fox/R4/USEPA/US@EPA, Ron Sechler  
bcc

Subject Re:

Hi Tom.

Ron Sechler and I are planning to attend. If possible, we would prefer the meeting start at 10 a.m. or later so we can avoid the need to drive to Raleigh Monday evening. However, given the importance of this meeting and the need to coordinate many schedules, we will understand if an earlier start is necessary.

Pace

Walker, William T SAW wrote:

All,

As most of you are probably aware, Mr. Salt (ASA-CW) rendered his decision on EPA's 404(q) elevation request regarding PCS Phosphate, late yesterday evening. I have attached here, the final documents for any of you that may not have received them as of yet. One of Mr. Salt's directives was that the Corps work with EPA Region 4, USFWS, NMFS and PCS over the next 10 days to explore the practicability of further minimization within the headwater areas of Jacks Creek, Jacobs Creek and Porter Creek.

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Tom Walker  
(910) 251-4631

<<FINAL Reply to EPA.pdf>> <<FINAL Conditions.pdf>> <<FINAL Staff Assessment.pdf>>

-----  
Pace Wilber, Ph.D.  
Atlantic Branch Chief, Charleston (F/SER47)  
Southeast Regional Office, NOAA Fisheries  
PO Box 12559  
Charleston, SC 29422-2559

843-953-7200

FAX 843-953-7205

pace.wilber@noaa.gov

<http://sero.nmfs.noaa.gov/dhc/habitat.htm>



Sam\_Hamilton@fws.gov  
05/07/2009 11:00 PM

To "Les Dixon" <Lester.S.Dixon@USACE.Army.mil>, "Dr. Roy Crabtree" <roy.crabtree@noaa.gov>, Stan Meiburg/R4/USEPA/US@EPA  
cc "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>, "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>, "Jeff Weller"  
bcc

Subject Re: PCS Phosphate 404q Decision and Documents

I will be out of office all next week on travel. Our point of contact will be Jeff Weller in our Regional Office. Pete Benjamin, our Raleigh ES supervisor will be present also. Sa\$

**From:** "Dixon, Lester S SAD" [Lester.S.Dixon@usace.army.mil]  
**Sent:** 05/07/2009 12:32 PM AST  
**To:** <Roy.Crabtree@noaa.gov>; Sam Hamilton; <Meiburg.stan@epa.gov>  
**Cc:** "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>  
**Subject:** PCS Phosphate 404q Decision and Documents

<<FINAL Reply to EPA.pdf>>  
Roy, Sam, and Stan

Reference the attached letter addressed to EPA from Army subject same as above.

Within ten days, the Corps has been directed to review the subject permit with the applicant and your respective agencies. COL Ryscavage has responsibility and the lead for this action.

I discussed this action with Stan, and he suggested a pre-meeting of the Federal agencies. I concurred. Tentatively, a meeting is planned for Tuesday of next week in NC.

Would you kindly identify a representative from your respective agencies. I will follow this email up with a phone call.

Sincerely,

Les Dixon  
US Army Corps of Engineers  
404 562 5200

Stan Meiburg /R4/USEPA/US  
05/07/2009 06:43 PM

To Tom Welborn  
cc "Jim Giattina" <giattina.jim@epa.gov>  
bcc  
Subject Fw:

Tom, FYI. I am pushing on this issue of "Fed only first". I raised it with Les Dixon and also asked Mike Shapiro to mention this to Rock.

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

**From:** Stan Meiburg  
**Sent:** 05/07/2009 01:46 PM EDT  
**To:** "Walker, William T SAW" <William.T.Walker@usace.army.mil>; les.dixon@us.army.mil  
**Cc:** "Jim Giattina" <giattina.jim@epa.gov>; "Sam Hamilton" <sam\_hamilton@fws.gov>; "Gen. Todd Semonite" <todd.semonite@us.army.mil>; "Col. Jeff Ryscavage" <Jefferson.Ryscavage@us.army.mil>  
**Subject:** Re:

Thanks, Tom. Jim Giattina is the point for us.

I want to be clear on one point that Les and I discussed and which may not be clear from your email. We would like the first meeting to be Feds only, so we can have discussions we need among ourselves.

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Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

**From:** "Walker, William T SAW" [William.T.Walker@usace.army.mil]

**Sent:** 05/07/2009 01:33 PM AST

**To:** <Roy.Crabtree@noaa.gov>; <Sam\_Hamilton@fws.gov>; Stan Meiburg; Tom Welborn; Rebecca Fox; "Ron Sechler" <ron.sechler@noaa.gov>; "Pace.Wilber" <Pace.Wilber@noaa.gov>; <pete\_benjamin@fws.gov>; "Mike Wicker" <Mike\_Wicker@fws.gov>; <RSmith@Pcsphosphate.com>; <JFurness@Pcsphosphate.com>

**Cc:** "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Jolly, Samuel K SAW" <Samuel.K.Jolly@usace.army.mil>; "Lekson, David M SAW" <David.M.Lekson@usace.army.mil>; "Lamson, Brooke SAW" <Brooke.Lamson@usace.army.mil>; <ghouse@brookspierce.com>; "Moyer, Jennifer A HQ02" <Jennifer.A.Moyer@usace.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>

All,

As most of you are probably aware, Mr. Salt (ASA-CW) rendered his decision on EPA's 404(q) elevation request regarding PCS Phosphate, late yesterday evening. I have attached here, the final documents for any of you that may not have received them as of yet. One of Mr. Salt's directives was that the Corps work with EPA Region 4, USFWS, NMFS and PCS over the next 10 days to explore the practicability of further minimization within the headwater areas of Jacks Creek, Jacobs Creek and Porter Creek.

To that end, I believe Mr. Les Dixon (USACE South Atlantic Division) has been in contact with EPA, NMFS and USFWS Regional Directors. Col Ryscavage has asked that I also contact each of you and inquire as to your availability for a meeting next week. We currently propose to meet next Tuesday, 12 May, to discuss minimization opportunities. The meeting will likely take place in Raleigh since that seems to be logistically central. Please let me know as soon as possible, whether you can be available.

Thanks

Tom Walker  
(910) 251-4631

<<FINAL Reply to EPA.pdf>> <<FINAL Conditions.pdf>> <<FINAL Staff Assessment.pdf>>

Stan Meiburg /R4/USEPA/US  
05/07/2009 01:46 PM

To "Walker, William T SAW"  
<William.T.Walker@usace.army.mil>, les.dixon@us.army.mil  
cc "Jim Giattina" <giattina.jim@epa.gov>, "Sam Hamilton"  
<sam\_hamilton@fws.gov>, "Gen. Todd Semonite"  
<todd.semonite@us.army.mil>, "Col. Jeff Ryscavage"  
bcc  
Subject Re:

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**To:** <Roy.Crabtree@noaa.gov>; <Sam\_Hamilton@fws.gov>; Stan Meiburg; Tom Welborn; Rebecca Fox; "Ron Sechler" <ron.sechler@noaa.gov>; "Pace.Wilber" <Pace.Wilber@noaa.gov>; <pete\_benjamin@fws.gov>; "Mike Wicker" <Mike\_Wicker@fws.gov>; <RSmith@Pcsphosphate.com>; <JFurness@Pcsphosphate.com>  
**Cc:** "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Jolly, Samuel K SAW" <Samuel.K.Jolly@usace.army.mil>; "Lekson, David M SAW" <David.M.Lekson@usace.army.mil>; "Lamson, Brooke SAW" <Brooke.Lamson@usace.army.mil>; <ghouse@brookspierce.com>; "Moyer, Jennifer A HQ02" <Jennifer.A.Moyer@usace.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>

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Tom Walker  
(910) 251-4631

<<FINAL Reply to EPA.pdf>> <<FINAL Conditions.pdf>> <<FINAL Staff Assessment.pdf>>

Stan Meiburg /R4/USEPA/US  
05/07/2009 12:51 PM

To "Dixon, Lester S SAD" <Lester.S.Dixon@usace.army.mil>, "Roy Crabtree" <Roy.Crabtree@noaa.gov>, "Sam Hamilton" <sam\_hamilton@fws.gov>  
cc "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>, "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>, "Jim Giattina" <Bob.Sussman/DC/USEPA/US@EPA>  
Subject Re: PCS Phosphate 404q Decision and Documents

Thanks, Les. Jim Giattina will be on point for us, and he's cc'd on this email. This is a very high priority for us and we appreciate your help!

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

**From:** "Dixon, Lester S SAD" [Lester.S.Dixon@usace.army.mil]  
**Sent:** 05/07/2009 12:32 PM AST  
**To:** <Roy.Crabtree@noaa.gov>; <Sam\_Hamilton@fws.gov>; Stan Meiburg  
**Cc:** "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>; "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>  
**Subject:** PCS Phosphate 404q Decision and Documents

<<FINAL Reply to EPA.pdf>>  
Roy, Sam, and Stan

Reference the attached letter addressed to EPA from Army subject same as above.

Within ten days, the Corps has been directed to review the subject permit with the applicant and your respective agencies. COL Ryscavage has responsibility and the lead for this action.

I discussed this action with Stan, and he suggested a pre-meeting of the Federal agencies. I concurred. Tentatively, a meeting is planned for Tuesday of next week in NC.

Would you kindly identify a representative from your respective agencies. I will follow this email up with a phone call.

Sincerely,



Les Dixon  
US Army Corps of Engineers  
404 562 5200



"Dixon, Lester S SAD"  
<Lester.S.Dixon@usace.army  
.mil>

05/07/2009 12:34 PM

To Stan Meiburg/R4/USEPA/US@EPA

cc

bcc

Subject RE: Corps gives PCS qualified permit victory

Stan

Concur, we should present a coordinated and uniform response to the media.

We will work it.

Sincerely

Les

-----Original Message-----

From: Meiburg.Stan@epamail.epa.gov [mailto:Meiburg.Stan@epamail.epa.gov]

Sent: Thursday, May 07, 2009 11:58 AM

To: Dixon, Lester S SAD

Subject: Fw: Corps gives PCS qualified permit victory

Sorry, Les--messed up the address the first time.

Stan

A. Stanley Meiburg

Acting Regional Administrator

EPA Region 4

Sam Nunn Atlanta Federal Center

61 Forsyth Street, SW

Atlanta, GA. 30303

Office: (404) 562-8357

Fax: (404) 562-9961

Cell: (404) 435-4234

Email: meiburg.stan@epa.gov

Sent using Blackberry

----- Original Message -----

From: Stan Meiburg

Sent: 05/07/2009 11:51 AM EDT

To: "Gen. Todd Semonite" <todd.semonite@us.army.mil>.

Cc: les.dixon@usarmy.mil

Subject: Fw: Corps gives PCS qualified permit victory

Todd--

Had a very good call with Les Dixon this morning--we're looking forward to moving ahead. Thank you!

Re the attached article--a small concern that the quote is not especially helpful. Coordination on messaging will be important going forward.

Best regards--

Stan

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Email: meiburg.stan@epa.gov

Sent using Blackberry

----- Original Message -----

From: Tom Welborn  
Sent: 05/07/2009 11:20 AM EDT  
To: Stan Meiburg  
Subject: Fw: Corps gives PCS qualified permit victory

Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: Linda Rimer  
Sent: 05/07/2009 11:06 AM EDT  
To: gdi2@cdc.gov; Jim Giattina; Tom Welborn; WilliamL Cox; Rebecca Fox;  
Palmer Hough; Gail Mitchell  
Subject: Corps gives PCS qualified permit victory You guys must already  
know this but I just heard about it.

Linda

Corps gives PCS qualified permit victory

Decision primarily backs local draft for mine growth

By TED STRONG

Staff Writer

A Wednesday decision by the U.S. Army Corps of Engineers' was a victory for PCS Phosphate, but not absolute.

A review by the Corps' Washington, D.C., office largely backed a decision by its Wilmington office to permit PCS Phosphate to expand its mine at Aurora by thousands of acres.

"They gave us a few minor to-dos," said Tom Walker, chief of the Corps' Wilmington field office. He described the changes as "nothing that really changes the flavor but just some things that strengthen the decision."

Corps officials must also hold a meeting with officials from the Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and PCS.

Walker said that meeting could result in changes to the proposed outline of the expansion, but isn't likely to significantly alter it.

The EPA had requested the review by the Corps of Engineers' Washington, D.C., office after deciding the Corps' Wilmington office hadn't paid enough attention to the EPA's concerns.

The EPA has been relatively vocal about those concerns lately and took part in a meeting earlier this year with officials from the Corps, regulatory agencies and PCS in which it pitched a more limited expansion for the mine. The EPA raised similar issues when it asked for the extra review.

PCS has criticized the EPA for raising the concerns so late in a process that has proceeded for more than eight years.

The EPA's concerns echo worries from environmentalists.

They argue that the mine was planning to dig up wetlands it could afford to avoid as it expanded.

Those worries were among concerns environmentalists cited earlier this year when they appealed a key state certification PCS had received for the expansion. That appeal has yet to be decided, but is unlikely to delay mine expansion in the short-term.

Company officials have maintained that existing assessments of the economics of mining or avoiding wetland areas are solid.

The permitting delays worried county officials, who went to Washington, D.C. this week to lobby federal officials and spent \$50,000 in county money to hire a lobbyist. The PCS mine-and-plant complex in Aurora employs more than 1,000 people, and the company is a major part of the county's tax base.

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"Dixon, Lester S SAD"  
<Lester.S.Dixon@usace.army  
.mil>

05/07/2009 12:32 PM

To <Roy.Crabtree@noaa.gov>, <Sam\_Hamilton@fws.gov>, Stan Meiburg/R4/USEPA/US@EPA  
cc "Ryscavage, Jefferson COL SAW" <Jefferson.Ryscavage@us.army.mil>, "Middleton, Arthur L SAD" <Arthur.L.Middleton@usace.army.mil>  
bcc

Subject PCS Phosphate 404q Decision and Documents

History:

ⓧ This message has been replied to.

<<FINAL Reply to EPA.pdf>>  
Roy, Sam, and Stan

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US Army Corps of Engineers  
404 562 5200

Stan Meiburg /R4/USEPA/US  
05/07/2009 11:57 AM

To les.dixon@us.army.mil  
cc  
bcc  
Subject Fw: Corps gives PCS qualified permit victory

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Stan  
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Acting Regional Administrator  
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Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry  
Stan Meiburg

----- Original Message -----

**From:** Stan Meiburg  
**Sent:** 05/07/2009 11:51 AM EDT  
**To:** "Gen. Todd Semonite" <todd.semonite@us.army.mil>  
**Cc:** les.dixon@usarmy.mil  
**Subject:** Fw: Corps gives PCS qualified permit victory

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Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry  
Tom Welborn



----- Original Message -----

**From:** Tom Welborn  
**Sent:** 05/07/2009 11:20 AM EDT  
**To:** Stan Meiburg  
**Subject:** Fw: Corps gives PCS qualified permit victory

Sent by EPA Wireless E-Mail Services  
Linda Rimer

----- Original Message -----

**From:** Linda Rimer  
**Sent:** 05/07/2009 11:06 AM EDT  
**To:** gdi2@cdc.gov; Jim Giattina; Tom Welborn; WilliamL Cox; Rebecca Fox;  
Palmer Hough; Gail Mitchell  
**Subject:** Corps gives PCS qualified permit victory  
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Stan Meiburg /R4/USEPA/US  
05/07/2009 11:51 AM

To "Gen. Todd Semonite" <todd.semonite@us.army.mil>  
cc les.dixon@usarmy.mil  
bcc "Carl Terry" <terry.carl@epa.gov>; "Jim Giattina"  
<giattina.jim@epa.gov>; "Scott Gordon"  
<gordon.scott@epa.gov>; "Gregory Peck"  
<peck.gregory@epa.gov>; Tom Welborn  
Subject Fw: Corps gives PCS qualified permit victory

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Tom Welborn

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"Freeman, Dee"  
<dee.freeman@ncdenr.gov>  
05/06/2009 10:30 PM

To Stan Meiburg/R4/USEPA/US@EPA  
cc  
bcc

Subject Re: PCS Phosphate 404q Decision and Documents

Thanks Stan. I enjoyed our meeting and the opportunity to be with everyone.  
- Dee

\*\*\*\*\*

Dee Freeman, Secretary  
N.C. Dept. of Environment and Natural Resources  
1601 MSC, Raleigh, NC 27699-1601  
(919) 715-4102; fax (919) 715-3060

Please note: my e-mail address has changed to dee.freeman@ncdenr.gov

E-mail correspondence to and from this address may be subject to the  
North Carolina Public Records Law and may be disclosed to third parties.

----- Original Message -----

From: Meiburg.Stan@epamail.epa.gov <Meiburg.Stan@epamail.epa.gov>  
To: Freeman, Dee  
Sent: Wed May 06 21:02:40 2009  
Subject: Fw: PCS Phosphate 404q Decision and Documents

Dee--

Thank you so much for coming to Atlanta for the State Director's  
meeting. It was a pleasure to see you, and I thought our session was  
most productive. It's a great group and we're delighted to have you as  
our newest member.

FYI per discussion and so you'll know what's going on--here is what we  
got from the Corps this evening.

Stan

A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303

Office: (404) 562-8357  
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Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

----- Forwarded by Stan Meiburg/R4/USEPA/US on 05/06/2009 08:59 PM -----

"Smith, Chip R  
Mr CIV USA ASA  
CW"  
<Chip.Smith@HQDA  
.Army.Mil>

05/06/2009 07:52  
PM

To  
Bob Sussman/DC/USEPA/US@EPA,  
Gregory Peck/DC/USEPA/US@EPA, Jim  
Giattina/R4/USEPA/US@EPA, Stan  
Meiburg/R4/USEPA/US@EPA

cc  
David Evans/DC/USEPA/US@EPA,  
Brian Frazer/DC/USEPA/US@EPA

Subject  
PCS Phosphate 404q Decision and  
Documents

(See attached file: FINAL Staff Assessment.pdf) (See attached file: FINAL  
Conditions.pdf) (See attached file: FINAL Reply to EPA.pdf)

Stan Meiburg /R4/USEPA/US

05/06/2009 09:12 PM

To todd.semonite@us.army.mil

cc

bcc

Subject Fw: PCS Phosphate 404q Decision and Documents

Todd, I wanted to forward to you the email we received this evening from USACE HQ. I assume you'll hear about this from your topside but thought I'd forward this to you anyway. Thanks for letting me engage you on this earlier in the week.

I haven't found the VM which Chip says that Rock left for me; perhaps it is on one of the other night call boxes in my office. In any event, my staff will move quickly to engage in the discussions described in this note.

It was a pleasure to talk with you earlier this week; welcome again to Atlanta and SAD!

Best wishes,

Stan

A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303

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----- Forwarded by Stan Meiburg/R4/USEPA/US on 05/06/2009 09:07 PM -----



"Smith, Chip R Mr CIV USA  
ASA CW"  
<Chip.Smith@HQDA.Army.Mi  
>

05/06/2009 07:52 PM

To Bob Sussman/DC/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, Jim Giattina/R4/USEPA/US@EPA, Stan Meiburg/R4/USEPA/US@EPA  
cc David Evans/DC/USEPA/US@EPA, Brian Frazer/DC/USEPA/US@EPA  
Subject PCS Phosphate 404q Decision and Documents

Mr. Salt, Acting ASA(CW), signed the findings and reply to EPA. The attachments are the staff assessment and selected special conditions on adaptive management, monitoring, and reclamation that were already in the permit, but which address agency concerns. Mr. Salt called Mr. Shapiro, Mr. Sussman, and Mr. Meiburg and left messages. I will call Jim Giattina tonight or first thing in the morning. Bottom line is that our direction is for the Corps to engage in a meeting and discussions with EPA, NMFS, FWS, and the applicant next week, focused on items noted in the reply to EPA (certain headwater stream areas). There is more in the letter. Thanks for your assistance and patience.

Chip Smith  
Office of the Assistant Secretary of the Army (Civil Works)  
Assistant for Environment, Tribal and Regulatory Affairs  
108 Army Pentagon 3E427  
Washington, D.C. 20310-0108  
703-693-3655 Voice  
703-839-0389 Cell  
703-697-8433 Fax



FINAL Staff Assessment.pdf FINAL Conditions.pdf FINAL Reply to EPA.pdf





"Smith, Chip R Mr CIV USA  
ASA CW"  
<Chip.Smith@HQDA.Army.MI  
>

05/06/2009 07:52 PM

To Bob Sussman/DC/USEPA/US@EPA, Gregory  
Peck/DC/USEPA/US@EPA, Jim  
Giattina/R4/USEPA/US@EPA, Stan  
cc David Evans/DC/USEPA/US@EPA, Brian  
Frazer/DC/USEPA/US@EPA  
bcc

Subject PCS Phosphate 404q Decision and Documents

History:

↪ This message has been replied to and forwarded.

Mr. Salt, Acting ASA(CW), signed the findings and reply to EPA. The attachments are the staff assessment and selected special conditions on adaptive management, monitoring, and reclamation that were already in the permit, but which address agency concerns. Mr. Salt called Mr. Shapiro, Mr. Sussman, and Mr. Meiburg and left messages. I will call Jim Giattina tonight or first thing in the morning. Bottom line is that our direction is for the Corps to engage in a meeting and discussions with EPA, NMFS, FWS, and the applicant next week, focused on items noted in the reply to EPA (certain headwater stream areas). There is more in the letter. Thanks for your assistance and patience.

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Assistant for Environment, Tribal and Regulatory Affairs  
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Washington, D.C. 20310-0108  
703-693-3655 Voice  
703-839-0389 Cell  
703-697-8433 Fax

Stan Meiburg/R4/USEPA/US  
05/12/2009 10:36 AM

To Bob Sussman/DC/USEPA/US@EPA  
cc  
bcc giattina.jim@epa.gov; Tom Welborn  
Subject Re: Fw: PCS Phosphate: USACE response to EPA elevation  
↓

Bob, upon reflection I had a better idea: I contacted SELC and they are going to forward the letter to the Corps themselves.

Stan

A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Stan Meiburg/R4/USEPA/US

Stan Meiburg/R4/USEPA/US  
05/12/2009 09:59 AM

To Bob Sussman  
cc  
Subject Fw: PCS Phosphate: USACE response to EPA elevation

FYI. Oddly, they didn't send a copy to the Corps. I'm going to forward a copy to Rock, Gen. Semonite, and Col. Ryscavage.

Stan

A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

----- Forwarded by Stan Meiburg/R4/USEPA/US on 05/12/2009 09:57 AM -----



Geoff Gisler  
<ggisler@selcnc.org>

To Mike Shapiro/DC/USEPA/US@EPA



05/12/2009 09:40 AM

cc Stan Meiburg/R4/USEPA/US@EPA, Jim Giattina/R4/USEPA/US@EPA, Gregory Peck/DC/USEPA/US@EPA, Suzanne Schwartz/DC/USEPA/US@EPA, Palmer Hough/DC/USEPA/US@EPA, Tom Welborn/R4/USEPA/US@EPA, David Evans/DC/USEPA/US@EPA, Robert Wood/DC/USEPA/US@EPA, Dawn Messier/DC/USEPA/US@EPA, Jennifer Derby/R4/USEPA/US@EPA, Rebecca Fox/R4/USEPA/US@EPA, "Pete\_Benjamin@fws.gov" <Pete\_Benjamin@fws.gov>, "Mike\_Wicker@fws.gov" <Mike\_Wicker@fws.gov>, Derb Carter <derbc@selcnc.org>  
Subject PCS Phosphate: USACE response to EPA elevation

Mr. Shapiro,

Please accept the attached submitted on behalf of the Pamlico-Tar River Foundation, Environmental Defense Fund, Sierra Club, and North Carolina Coastal Federation. The letter addresses the Army Corps of Engineers' response to EPA's elevation of the Wilmington District's permit decision on the PCS Phosphate mine expansion. As noted in the letter, the Corps's response fails to adequately address the unacceptable adverse effects identified by EPA in its 404(q) action and therefore action under 404(c) is necessary to prevent long-term environmental damage to the Albemarle Pamlico Estuary system.

Thank you for your consideration of these comments,

Geoff Gisler  
Staff Attorney  
Southern Environmental Law Center  
200 W. Franklin St. Suite 330  
Chapel Hill, NC 27516  
Ph: (919) 967-1450  
Fax: (919) 929-9421  
[www.southernenvironment.org](http://www.southernenvironment.org)

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[attachment "05-12-09 Response to Corps's elevation decision.pdf" deleted by Stan Meiburg/R4/USEPA/US]

Stan Meiburg /R4/USEPA/US  
05/14/2009 06:23 PM

To: Jim Giattina/R4/USEPA/US@EPA, "Stan Meiburg"  
<Meiburg.Stan@epa.gov>, "welborn tom"  
<welborn.tom@epa.gov>, "mancusi-ungaro philip"

cc

bcc

Subject: Re: Cyrpress Run

Jim, I too will be guided by your (and Tom's) thoughts on what makes sense.

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry  
Jim Giattina

----- Original Message -----

**From:** Jim Giattina  
**Sent:** 05/14/2009 06:18 PM EDT  
**To:** meiburg.stan@epa.gov; welborn.tom@epa.gov;  
mancusi-ungaro.philip@epa.gov  
**Subject:** Fw: Cyrpress Run  
fyi...any thoughts?...

----- Forwarded by Jim Giattina/R4/USEPA/US on 05/14/2009 06:17 PM -----



GHOUSE@brookspierce.com

05/14/2009 06:01 PM

To: Gregory Peck/DC/USEPA/US@EPA, Jim  
Giattina/R4/USEPA/US@EPA  
cc: lawrence.liebesman@hklaw.com

Subject: Re: Cyrpress Run

Dear Jim and Greg:

Cypress Run is part of the South Creek Federal Drainage District that was established in the 1960s to facilitate drainage of farmland properties. There is a recorded Right of Way from PCS's predecessor granting the District the right to maintain clear ditch/stream drainage in Cypress Run for the conveyance of water from up gradient farms. The area south of 33 has extensive farms (some owned by PCS and rented to farmers and some privately owned) surrounding Cypress Run that continue to rely upon this drainage and will continue to do so until this property is mined. Therefore, it not feasible to put Cypress Run into a conservation easement.

However, PCS is willing to request the District allow PCS to record some

additional restriction that says PCS will not mine an avoidance area around Cypress Run in the S of 33 tract similar to that originally proposed for the streams N of 33, if you think this is of value. I have some question about the efficacy of taking any action at this time, but will be guided by your desires.

George W. House  
Brooks, Pierce, McLendon, Humphrey & Leonard  
Attorneys and Counsellors at Law  
P.O. Box 26000  
Greensboro, N.C. 27420  
Direct Dial: 336-271-3114  
Direct Fax: 336-232-9114

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GHOUSE@brookspierce.com

05/15/2009 10:16 AM

To JEFFERSON.RYSCAVAGE@USACE.ARMY.MIL,  
BROOKE.LAMSON@USACE.ARMY.MIL, Jim  
Giattina/R4/USEPA/US@EPA  
cc "lawrence liebesman" <lawrence.liebesman@hklaw.com>,  
Philip Mancusi-Ungaro/R4/USEPA/US@EPA, Stan  
Meiburg/R4/USEPA/US@EPA, Gregory

bcc

Subject Re: Cypress Run

Dear Col. Ryscavage and Ms. Lamson:

Please note the exchange of emails below between myself and Mr. Giattina regarding Cypress Run. PCS is willing to request the South Creek Drainage District to allow a negative restriction preventing future mining to be recorded upon the area avoided around Cypress Run in the South of 33 Tract similar to the restriction originally proposed for the streams on NCPC/Bonnerton tract. PCS will add this commitment to the Proposal submitted yesterday, along with the specific biotic community types.

CZR is calculating this information and believes they can have the graphics and calculations done by Monday.

George W. House  
Brooks, Pierce, McLendon, Humphrey & Leonard  
Attorneys and Counsellors at Law  
P.O. Box 26000  
Greensboro, N.C. 27420  
Direct Dial: 336-271-3114  
Direct Fax: 336-232-9114

Giattina.Jim@epam  
ail.epa.gov

05/14/2009 09:59  
PM

To  
"GHOUSE" <GHOUSE@brookspierce.com>,  
Peck.Gregory@epamail.epa.gov

cc

"lawrence liebesman"  
<lawrence.liebesman@hklaw.com>,  
"Stan Meiburg"  
<meiburg.stan@epa.gov>, "Tom  
Welborn" <welborn.tom@epa.gov>,  
"Philip Mancusi-Ungaro"  
<mancusi-ungaro.philip@epa.gov>

Subject

Re: Cypress Run

George...I would recommend that you request the District allow PCS to

record some additional restriction that says PCS will not mine an avoidance area around Cypress Run in the S of 33 tract. George, we appreciate your follow-up...Jim  
Sent by EPA Wireless E-Mail Services

----- Original Message -----

From: GHOUSE  
Sent: 05/14/2009 06:01 PM AST  
To: Gregory Peck; Jim Giattina  
Cc: lawrence.liebesman@hkklaw.com  
Subject: Re: Cyrpress Run

Dear Jim and Greg:

Cypress Run is part of the South Creek Federal Drainage District that was established in the 1960s to facilitate drainage of farmland properties. There is a recorded Right of Way from PCS's predecessor granting the District the right to maintain clear ditch/stream drainage in Cypress Run for the conveyance of water from up gradient farms. The area south of 33 has extensive farms (some owned by PCS and rented to farmers and some privately owned) surrounding Cypress Run that continue to rely upon this drainage and will continue to do so until this property is mined. Therefore, it not feasible to put Cypress Run into a conservation easement.

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George W. House  
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Attorneys and Counsellors at Law  
P.O. Box 26000  
Greensboro, N.C. 27420  
Direct Dial: 336-271-3114  
Direct Fax: 336-232-9114

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"Ryscavage, Jefferson COL  
SAW"  
<Jefferson.Ryscavage@us.army.mil>

05/15/2009 12:23 PM

To <GHOUSE@brookspierce.com>, "Lamson, Brooke SAW"  
<Brooke.Lamson@usace.army.mil>, Jim  
Giattina/R4/USEPA/US@EPA  
cc "lawrence liebesman" <lawrence.liebesman@hkllaw.com>,  
Philip Mancusi-Ungaro/R4/USEPA/US@EPA, Stan  
Meiburg/R4/USEPA/US@EPA, Gregory

bcc

Subject RE: Cypress Run

Geroge,  
Thank you for the note and clarification.

v/r,  
Col Ryscavage

-----Original Message-----

From: GHOUSE@brookspierce.com [mailto:GHOUSE@brookspierce.com]  
Sent: Friday, May 15, 2009 10:17 AM  
To: Ryscavage, Jefferson COL SAW; Lamson, Brooke SAW;  
Giattina.Jim@epamail.epa.gov  
Cc: lawrence liebesman; Philip Mancusi-Ungaro; Stan Meiburg;  
Peck.Gregory@epamail.epa.gov; Tom Welborn  
Subject: Re: Cypress Run

Dear Col. Ryscavage and Ms. Lamson:

Please note the exchange of emails below between myself and Mr. Giattina regarding Cypress Run. PCS is willing to request the South Creek Drainage District to allow a negative restriction preventing future mining to be recorded upon the area avoided around Cypress Run in the South of 33 Tract similar to the restriction originally proposed for the streams on NCPC/Bonnerton tract. PCS will add this commitment to the Proposal submitted yesterday, along with the specific biotic community types.

CZR is calculating this information and believes they can have the graphics and calculations done by Monday.

George W. House  
Brooks, Pierce, McLendon, Humphrey & Leonard Attorneys and Counsellors at Law  
P.O. Box 26000 Greensboro, N.C. 27420  
Direct Dial: 336-271-3114  
Direct Fax: 336-232-9114

Giattina.Jim@epamail.epa.gov

05/14/2009 09:59  
PM

To  
"GHOUSE" <GHOUSE@brookspierce.com>,  
Peck.Gregory@epamail.epa.gov

cc

"lawrence liebesman"  
<lawrence.liebesman@hkllaw.com>,  
"Stan Meiburg"  
<meiburg.stan@epa.gov>, "Tom  
Welborn" <welborn.tom@epa.gov>,  
"Philip Mancusi-Ungaro"  
<mancusi-ungaro.philip@epa.gov>

Subject

Re: Cypress Run

George...I would recommend that you request the District allow PCS to record some additional restriction that says PCS will not mine an avoidance area around Cypress Run in the S of 33 tract. George, we appreciate your follow-up...Jim Sent by EPA Wireless E-Mail Services

----- Original Message -----  
From: GHOUSE  
Sent: 05/14/2009 06:01 PM AST  
To: Gregory Peck; Jim Giattina  
Cc: lawrence.liebesman@hklaw.com  
Subject: Re: Cypress Run

Dear Jim and Greg:

Cypress Run is part of the South Creek Federal Drainage District that was established in the 1960s to facilitate drainage of farmland properties. There is a recorded Right of Way from PCS's predecessor granting the District the right to maintain clear ditch/stream drainage in Cypress Run for the conveyance of water from up gradient farms. The area south of 33 has extensive farms (some owned by PCS and rented to farmers and some privately owned) surrounding Cypress Run that continue to rely upon this drainage and will continue to do so until this property is mined. Therefore, it not feasible to put Cypress Run into a conservation easement.

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Brooks, Pierce, McLendon, Humphrey & Leonard Attorneys and Counsellors at Law  
P.O. Box 26000 Greensboro, N.C. 27420  
Direct Dial: 336-271-3114  
Direct Fax: 336-232-9114

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Sam\_Hamilton@fws.gov  
05/22/2009 07:21 PM

To Stan Meiburg/R4/USEPA/US@EPA  
cc  
bcc

Subject Re: Fw: PCS permit

History:        ↗ This message has been replied to.

Thx. Will call u this evening if that works.

----- Original Message -----  
From: Meiburg.Stan  
Sent: 05/22/2009 07:19 PM AST  
To: Sam Hamilton  
Subject: Re: Fw: PCS permit

Thank you, Sam. Very valuable and I appreciate your engaging on this.

On the other matter, don't hesitate to call either on my cell or at home  
this weekend--~~XXXXXXXXXXXXXXXXXXXX~~

Stan

Exemption 6 Personal Privacy

A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov



Sam\_Hamilton@fws.gov  
05/24/2009 08:29 PM

To Stan Meiburg/R4/USEPA/US@EPA  
cc  
bcc  
Subject got ur vmail

History:  This message has been replied to.

trying to run down an answer for you relative to pcs.... pete and our RO folks visited before i sent you the note....i'm sure the field is wanting to take this as far as we can.... but, i was told we can't back it up with any data...specifics....that we needed to rely on noaa fisheries.... i have a call into our folks to see what if anyting has changed..... sorry, that's not much help. apologize for the confusion...sam

Stan Meiburg /R4/USEPA/US  
05/24/2009 10:55 PM

To "Sam Hamilton" <sam\_hamilton@fws.gov>  
cc  
bcc  
Subject Re: got ur vmail☐

No worries. I think I both understand and have sympathy for the staff view on this, but at this stage I really want to present the management view and judgement up the line, and to do so as accurately and fairly as possible. Thanks so much for your help!.

Stan  
A. Stanley Meiburg  
Acting Regional Administrator  
EPA Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA. 30303

Office: (404) 562-8357  
Fax: (404) 562-9961  
Cell: (404) 435-4234  
Email: meiburg.stan@epa.gov

Sent using Blackberry

----- Original Message -----  
From: Sam\_Hamilton  
Sent: 05/24/2009 08:29 PM AST  
To: Stan Meiburg  
Subject: got ur vmail

trying to run down an answer for you relative to pcs.... pete and our RO folks visited before i sent you the note....i'm sure the field is wanting to take this as far as we can.... but, i was told we can't back it up with any data...specifics....that we needed to rely on noaa fisheries.... i have a call into our folks to see what if anyting has changed..... sorry, that's not much help. apologize for the confusion...sam



"Ryscavage, Jefferson COL  
SAW"  
<Jefferson.Ryscavage@us.army.mil>

06/02/2009 04:12 PM

To Tom Welborn/R4/USEPA/US@EPA  
cc Stan Meiburg/R4/USEPA/US@EPA, Jim  
Giattina/R4/USEPA/US@EPA

bcc

Subject RE: PCS map

Tom,  
Thanks for the information.

v/r,  
COL Ryscavage

Jefferson M. Ryscavage  
Colonel, Corps of Engineers  
Commander, Wilmington District  
910-251-4501  
<http://www.saw.usace.army.mil/>

-----Original Message-----

From: Welborn.Tom@epamail.epa.gov [mailto:Welborn.Tom@epamail.epa.gov]  
Sent: Tuesday, June 02, 2009 4:04 PM  
To: Ryscavage, Jefferson COL SAW  
Cc: Meiburg.Stan@epamail.epa.gov; Giattina.Jim@epamail.epa.gov  
Subject: PCS map

Colonel, I was asked by Stan Meiburg to forward this map to you. Let me know if you have any questions.

(See attached file: Scan001.PDF)

Tom Welborn, Chief  
Wetlands, Coastal and Oceans Branch  
EPA Region 4  
61 Forsyth Street, SW  
Atlanta, GA 30303  
404-562-9354  
404-562-9343 (FAX)  
404-895-6312 (cell)



GHOUSE@brookspierce .com

06/02/2009 05:22 PM

To Gregory Peck/DC/USEPA/US@EPA

cc "jefferson rycavage"  
<jefferson.rycavage@usace.army.mil>, Stan  
Meiburg/R4/USEPA/US@EPA, Jim

bcc

Subject Re: PCS

History:  This message has been forwarded.

Dear .Mr. Peck:

I have reviewed your email and fax with PCS Management. In reliance upon the terms stated, PCS will provide the additional avoidance and minimization requested.

-----  
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-----  
Original Message -----

From: Peck.Gregory  
Sent: 06/02/2009 01:49 PM AST  
To: GEORGE HOUSE  
Cc: jefferson.rycavage@usace.army.mil; Meiburg.Stan@epamail.epa.gov; Giattina.Jim@epamail.epa.gov; Shapiro.Mike@epamail.epa.gov; Schwartz.Suzanne@epamail.epa.gov; craig.schmauder@us.army.mil; lawrence.liebesman@hklaw.com  
Subject: PCS

Mr. House:

After review of PCS Phosphate Company's most recent proposal identifying further avoidance of waters of the U.S. and agreement to place additional protective easements on these waters within the Bonnerton, NCPC, and S33 tracts, EPA has identified areas within the Jacks Creek watershed where we believe additional avoidance is necessary to protect the ecological integrity of this Primary Nursery Area (PNA). EPA understands that significant portions of the Jacks Creek watershed have been impacted by previous mining and that additional areas within this PNA will be affected by proposed mining activities. Recognizing this concern, EPA requests that the Company agree to further avoid impacts to wetlands within the headwaters of Jacks Creek and to expand



the coverage of areas in the watershed under permanent covenants to protect these areas from future adverse environmental effects. I will send to you, via facsimile, a map of Jacks Creek delineating the boundaries of the additional avoidance and easements we are requesting. We believe this request for additional avoidance and easements encompasses approximately 80 acres within the Jacks Creek watershed.

We appreciate your consideration of this request and the steps the Company has already undertaken to further protect waters of the United States on the Bonnerton, NCPC, and S33 tracts, particularly waters associated with PNA's. If the Company accepts this request, and in light of avoidance previously agreed to, EPA believes that the Agency will be able to conclude that we do not need to proceed with further review of the Company's proposed mining activities under our Clean Water Act authorities.

Please contact me if you have any questions regarding this request. We look forward to hearing from you.

Regards,  
Greg Peck

---

Gregory E. Peck  
Chief of Staff  
Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

202-564-5778

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"Dixon, Lester S SAD"  
<Lester.S.Dixon@usace.army.mil>

06/03/2009 04:18 PM

To <Sam\_Hamilton@fws.gov>, Stan  
Meiburg/R4/USEPA/US@EPA  
cc "Semonite, Todd T BG SAD"  
<Todd.T.Semonite@usace.army.mil>  
bcc

Subject FW: PCS Phosphate ROD signed this afternoon

History: This message has been forwarded.

Sam and Stan

For your situational awarenss.

Best regards,

Les

-----Original Message-----

From: Whittington, Susan S SAD

Sent: Wednesday, June 03, 2009 4:16 PM

To: Semonite, Todd T <<PCS Phosphate ROD signed this afternoon.doc>> BG  
<<PCS Phosphate news release talking points.doc>> SAD; Dixon, Lester S SAD;  
Hinton-Lee, Chris SAD; Brumfield, Tyrone J COL SAD

Cc: Prince, George R Jr SAD; White, Tori SAJ; Holland, Robert G SAD; Purcell,  
Cornelius W HQ@SAD

Subject: FW: PCS Phosphate ROD signed this afternoon

Importance: High

FYI..... I understand COL Ryscavage received clearance from the ASA(CW)  
office. This final news release reflects further avoidance and minimization  
as agreed to by the applicant.

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## **US Army Corps of Engineers®**

Wilmington District

For Release: IMMEDIATELY

June 3 2009

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### **Corps renders Record of Decision on PCS Phosphate Permit Application**

**Wilmington, North Carolina**—Today, the U.S. Army Corps of Engineers, Wilmington District, rendered a Record of Decision and proffered a permit to the PCS Phosphate Corporation to expand its mining operations in Beaufort County, North Carolina. As conditions of the permit, PCS Phosphate must complete extensive compensatory mitigation and monitoring before, during and following all mining and reclamation activities.

Col. Jefferson Ryscavage, Commander of the Wilmington District, said “This Record of Decision culminates a long, complex and thorough process. Our Regulatory Project Manager and staff worked intensively with the applicant, federal and state resources agencies, and environmental organizations over a period of more than eight years. We are confident that we have identified an appropriately drawn and balanced alternative and proffered a permit that will allow continued access to an important mineral resource, while maximizing protection to wetlands, streams and watersheds, and ensuring reclamation, mitigation and stewardship of a sensitive and highly valued coastal ecosystem.”

The original plan put forward by PCS Phosphate has been significantly altered in the eight-year process of completing the Environmental Impact Statement. Eleven alternative plans including a no action alternative were evaluated. The Record of Decision (ROD) selects “Alternative L, with modifications” to be permitted, while requiring extensive mitigation and other actions as conditions for the permit.

This is both the most extensive regulatory permit ever proffered in North Carolina and the largest mitigation effort ever undertaken by an applicant.

Compared with PCS Phosphate’s original proposal, Alternative L reduces impacts to linear feet of stream by about 80 percent and reduces wetlands impacts by about 40 percent. The Corps and the applicant worked closely with resource agencies to protect the highest value ecosystem areas within the alternative selected. A brief table shows PCS Phosphate’s original proposal, the final Alternative L as modified, and the reductions in mined area and impacts achieved.

<u>Original Proposal</u>	<u>Alt. L (modified)</u>	<u>Reduction</u>
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<b>Acres mined</b>	13,961	11,351	2,610
<b>Wetland &amp; open waters impacted</b>	5,668	3,911	1,757
<b>Linear ft. stream</b>	89,150	22,082	67,068

In addition to the more than 1,750 acres of wetlands and 67,000 linear feet of stream avoided, Alternative L reflects substantive efforts to confine impacts to areas of lesser ecological value. Mining will be staged so that the impacts are scheduled to occur only as actual mining operations progress over approximately 36 years. Reclamation begins to restore some values to the impacted areas even as mining activities are ongoing. Reclaimed areas will reconnect to their watersheds and promote the return of appropriate vegetation and wildlife.

Restoration, enhancement and preservation mitigations to be undertaken by PCS Phosphate as conditions of the permit will include more than 10,000 acres of wetland mitigation, and more than 84,000 linear feet of stream. The mitigation plan as a whole meets or exceeds federal guidelines.

Col Ryscavage said “This has been a very carefully weighed decision, because it exemplifies the toughest role our Regulatory program has to be prepared to address—weighing the Nation’s need for a limited resource that is important for food production and industry beside the Nation’s equally important commitment to sustaining an important ecosystem.”

“I am proud of the depth of research and the extensive consultation undertaken by my staff and the Review Team to make a well-researched and balanced Record of Decision possible.”

**PCS Phosphate permit decision**  
**Talking points**

**June 3 2009**

1. **Purpose and need:** One of the key questions that must be answered in a regulatory action of this kind is whether a clearly defined purpose and need for this particular option in this particular place can be determined. Phosphate is a mineral required in a wide variety of agricultural and industrial applications that are important to the nation and the world, from chemical ingredients needed to make solar panels to elements of animal feed and fertilizer to ingredients important in food products. The mineral resource located in the permit area is one of a limited number of extractable deposits within the United States. The mining operation at PCS Phosphate is also an important economic force in this depressed area of North Carolina. Most other deposits are located in Florida.
2. **Value of the ecosystem:** The Tar-Pamlico ecosystem, which this deposit of phosphate ore underlies, is a valuable coastal resource, offering important communities including open water, intermittent and permanent streams and their watersheds, estuarine nursery habitat for many aquatic species, and a wide variety of forest types including bottomland hardwood, hardwood, mixed pine-hardwood, pine, pocosin bay and sand ridge forest. Such areas provide foraging area for deer, black bear, turkey, neotropical migrant birds and other species. These important communities have merited the extensive coordination and efforts to identify and protect the highest quality areas that contribute most to the continued viability and vibrancy of the ecosystem. All the stream reaches impacted under alternative L are located in the upper headwaters of tributaries to the Pamlico River and the Albemarle / Pamlico Estuary. All restoration, enhancement, and preservation will take place in these same headwaters areas.
3. **Review Team:** The process that resulted in today's ROD and permit proffer took more than eight years and involved extensive consultation with a review team, which held 22 working meetings along with many other phone conversations and emails that addressed the following major issues:
  - Applicant's purpose and need
  - Project area boundary
  - Determination of complete project and cumulative impacts
  - Minimum pit width evaluations
  - Cost model development
  - Mining plan boundaries development
  - Wetland and waters impact avoidance and minimization
  - Wetland valuation criteria
  - Stream and buffer area identification and valuation
  - Mitigation options
  - Drainage basin reduction
  - Threatened and endangered species
  - Socio-economic impacts
  - Cadmium levels

The membership of the Review Team included:

- The U.S. Army Corps of Engineers
- US Environmental Protection Agency
- US Fish and Wildlife Service
- National Marine Fisheries Service
- NC Division of Water Quality
- NC Division of Coastal Management
- NC Division of Marine Fisheries
- NC Division of Land Resources
- Pamlico-Tar River Foundation
- Environmental Defense Fund
- PCS Phosphate Company, Inc.
- PCS Administration (USA) Inc.
- CZR Incorporated (consultant assisting in the development of the EIS)

4. **Proposed vs. final impacts:** The original plan put forward by PCS Phosphate has been significantly altered in the 8-year process of completing the Environmental Impact Statement. Eleven alternative plans and a no action alternative were evaluated. The ROD addresses “modified Alternative L” as the resulting ‘Least Environmentally Damaging Practicable Alternative’ (LEDPA). The EIS process resulted in an alternative that avoids impacts to linear feet of stream by about 75 percent and also avoids wetlands impacts by about 30 percent compared with the original proposal. In reducing impacts the Corps and the applicant worked closely with resource agencies to protect the highest value ecosystem areas within the alternative selected. Modified Alternative L ensures wildlife corridors that provide for the free movement of species in buffer corridors around all major watercourses. A brief table shows PCS Phosphate’s original proposal, the final LEDPA selected, modified Alternative L ,and the reductions in mined area and impacts achieved.

	<u>Original Proposal</u>	<u>Alt. L (modified)</u>	<u>Reduction</u>
<b>Acres mined</b>	13,961	11,351	2,610
<b>Wetlands &amp; Open water impacts</b>	5,668	3,911	1,757
<b>Linear ft. stream</b>	89,150	22,082	67,068

5. **Minimization:** In addition to the more than 1,750 acres of wetlands and 67,000 linear feet of stream avoided in Alternative L, the process achieved minimization of impacts. This means that the final alternative effectively identified and avoided the highest value wetland and stream areas and made the substantive efforts to confine impacts to areas of lesser ecological value insofar as practicable. Minimization is also achieved through the gradual staging of mining impacts such that the impacts are scheduled to occur only as actual mining operations progress, and reclamation begins to restore some, although not all, values to the impacted

areas even as mining activities are ongoing, reconnecting reclaimed areas to their watersheds and promoting the return of appropriate vegetation and wildlife.

6. **Mitigation:** While this ROD and proffered permit include the greatest wetlands impact ever to be permitted within North Carolina, it is also true that this project includes more mitigation than any previous project in the state. Indeed, the acreages and linear feet of stream to be restored, enhanced, or preserved meets or exceeds the federal goals of 2:1 acres of mitigation per acre of wetland impacted with more than 10,000 acres of wetland mitigation, and 1:1 to 3:1 linear feet of stream per linear foot of stream impacts (restoration, enhancement or preservation of more than 84,000 linear feet of stream). Nearly all of the mitigation will take place within the same hydrologic unit. To date, the applicant has already constructed more than 1,000 acres of mitigation and completed mitigation on 3,000 linear feet of stream.
  
7. **EPA Elevation of the Decision to ASA.** By letter dated April 3, 2009, the EPA requested that the Assistant Secretary of the Army for Civil Works (ASA (CW)) review this matter before the Wilmington District made a final permit decision. In accordance with the elevation process established in an MOA between our two agencies, the ASA undertook a 30-day review of the proposed ROD, including a site visit and presentations by both EPA and the applicant, and then remanded the permit decision to the Commander of the Wilmington District, directing that a final consultation with EPA and the applicant be made to discern whether further avoidance and minimization could be achieved in the Jack's Creek, Jacobs Creek and Porter Creek areas. The ASA also asked for added clarification. The Wilmington District, EPA, and the applicant met with USFWS and NMFS, and agreed to further avoidance and minimization in these three watersheds and two others.
  
8. **Can EPA still veto the permit decision?** Questions about this issue should be directed to the EPA.