



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF THE
REGIONAL
ADMINISTRATOR

MAY 24 2019

Colonel Phillip J. Borders
Alaska District
U.S. Army Corps of Engineers
P.O. Box 6898
JBER, Alaska 99506-0898

Re: Department of Army Draft Permit POA-2015-25, Nanushuk Development Project

Dear Colonel Borders:

Thank you for taking the time to work collaboratively on the Notice of Intent to Proceed and draft Department of the Army permit for the proposed Nanushuk Development Project. I appreciate the productive discussions between our agencies' staff in recent weeks since receiving draft documents on April 8, 2019. Consistent with those discussions, I am withdrawing my April 23rd request for review of the proposed permit under Part IV, Paragraph 3(d)(2) of the 1992 Clean Water Act (CWA) Section 404(q) Memorandum of Agreement (MOA) Between the Environmental Protection Agency and the Department of the Army. The EPA looks forward to seeing requirements in the final permit and Record of Decision that are consistent with the draft documents we received on May 10, 2019.

The EPA appreciates that the project has been refined, by both the applicant and the Corps, to reduce aquatic resource impacts and to address EPA's concerns identified in our 2017 3(a) and 3(b) letters pursuant to the 1992 CWA 404(q) MOA. Specifically, we appreciate the inclusion of key avoidance and minimization components and requiring compensatory mitigation to offset the proposed impacts. The changes to project components which led to reduced overall impacts include: choosing the Alternative 5 road route alignment; including the use of existing roadway infrastructure; relocating infrastructure sites; changes to proposed road side slopes from 3:1 to 2:1; and reducing all road widths to 32 feet.

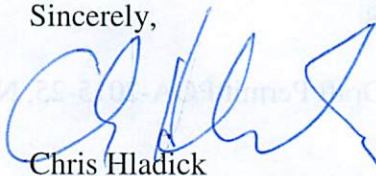
As discussed, the EPA agrees that compensatory mitigation should be required for this project to address unavoidable impacts to aquatic resources. We appreciate the clarifications we received on the applicant-proposed compensatory mitigation projects, which we understand will enhance water quality and protect aquatic resources. We also appreciate inclusion of the requirement that the compensatory mitigation projects be implemented prior to commencing construction work authorized under this permit. We would like to offer our assistance in reviewing the required plan to improve handling, treatment, and discharge of domestic wastewater in the Native Village of Nuiqsut, Alaska.

Given the lack of standard valuations for crediting out-of-kind mitigation in these circumstances, we recognize that the approach taken in this draft permit may not be precedential. As such, we commit to continuing our collaborative efforts to address the challenges associated with assessing and establishing a common "currency" for appropriate and practicable out-of-kind compensatory mitigation for large-scale projects in Alaska.

With respect to the Part III policy issue coordination and resolution process referenced in our April 23rd letter, EPA will work with the District through the consultation process. It should be noted that consistent with the Part III procedures of the 1992 CWA 404(q) MOA, this individual permit decision should not be delayed pending resolution of these policy issues, nor should the outcome of any forthcoming policy changes affect the final permit decision for this project.

Due to a recent realignment in our office, please contact Dan Opalski, Director, Water Division, at (206) 553-1855 regarding Section 404 matters from this point on. We look forward to making progress on these important issues.

Sincerely,



Chris Hladick
Regional Administrator