



STATE OF MISSISSIPPI
PHIL BRYANT
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

March 15, 2012

Certified Mail No. 7011 3500 0000 3106 4515
Mr. Michael F. McNair
Regulatory Branch Chief
U.S. Army Corps of Engineers, Vicksburg District
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Dear Mr. McNair:

Re: Intent to Deny
Nationwide Permit No. 44
Warren County
COE No. MVK-2012-196
WQC No. WQC2012053

The Department of Environmental Quality (Department) has reviewed the public notice submitted to our office dated February 21, 2012. This notice served as a request for Section 401 Water Quality Certification of the U.S. Army Corps of Engineer's Nationwide Permits.

This letter pertains in particular to Nationwide Permit 44, which reads as follows:

Nationwide Permit No. 44 – Mining Activities authorizes discharges of dredged or fill material into non-tidal waters of the United States for mining activities, except for coal mining activities. The discharge must not cause the loss of greater than ½-acre of non-tidal waters of the United States, including the loss of no more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds the district engineer waives the 300 linear foot limit by making a written determination concluding that the discharge will result in minimal adverse effects. This NWP does not authorize discharges into non-tidal wetland adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 31.) If reclamation is required by other statutes, then a copy of the reclamation plan must be submitted with the pre-construction notification.

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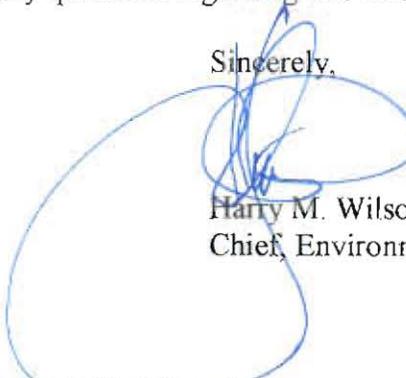
OFFICE OF POLLUTION CONTROL

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Because the proposed activity in conjunction with other activities may result in adverse cumulative impacts, the Department has not been assured that appropriate measures will be taken to eliminate unreasonable degradation and irreparable harm to waters of the State. Therefore, the Department cannot certify that the project will be in compliance with Section 401 Water Quality Certification Regulations and intends to deny the request. Please contact Carrie Barefoot of my staff at (601) 961-5322 if you have any questions regarding this matter.

Sincerely,



Harry M. Wilson III, P.E., DEE
Chief, Environmental Permits Division

HMW: cb

cc: U.S. Army Corps of Engineers, ~~Mobile District~~
Attn: Mr. Craig Litteken, Regulatory Branch Chief
U.S. Army Corps of Engineers, Memphis District
Attn: Mr. Tim H. Flinn, Acting Regulatory Branch Chief
U.S. Army Corps of Engineers, Nashville District
Attn: Mr. Brad Bishop, Western Regulatory Section Chief
Mr. Jan Boyd, Department of Marine Resources
Ms. Kathy Lunceford, U.S. Fish and Wildlife Service
Mr. William Cox, Environmental Protection Agency