



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
1616 CAPITOL AVENUE
OMAHA NE 68102-4901

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 14, 2011

Operations Division

Mr. Aaron Million
Million Conservation Resource Group
3166 Stargazer Court
Fort Collins, Colorado 80525

RE: Regional Watershed Supply Project (RWSP) EIS – Section 404 Clean Water Act Permit Application Withdrawal and Termination of EIS Process

Dear Mr. Million:

This letter is to inform you that the U.S. Army Corps of Engineers, Omaha District, Denver Regulatory Office (Corps) has officially withdrawn your Section 404 Clean Water Act permit application for the Regional Watershed Supply Project per regulations on the processing of permit applications found at 33 CFR 325.1(d) and 33 CFR 325.2(d)(5), and terminated the Environmental Impact Statement (EIS) evaluation process.

To review, you will recall the following events have occurred since the start of the EIS process:

- On July 30, 2009, when the public scoping comment period came to a close, the Corps sent a letter requiring you to provide information on who or what entities would be using the water delivered by the proposed pipeline, and further, that this information would be required, studied, and verified *before* evaluating any hydrologic and other environmental impacts. From the thousands of scoping comments received, the Corps recognized that this information was critical for our development of an adequate purpose and need statement for the EIS. The Corps granted you six months to provide the water user information. You submitted the requested information on January 20, 2010. The Corps then started a nine month process to evaluate the eighteen water users you submitted.
- On May 21, 2010, you requested a 60 to 90 day pause in EIS work for unexplained reasons. The Corps granted this stop work request, and after not hearing from you in more than 90 days, the Corps sent you an August 24, 2010 letter stating that you had 30 days to respond about your intentions to proceed. You responded 17 days later with a September 16, 2010 letter, stating that you were ready to resume EIS tasks, but you delayed sending a meeting agenda as requested, and work did not officially resume until January 17, 2011.

- On April 27, 2011, you sent the Corps a second stop-work request for a 60 day period in order to explore changing the project purpose from water supply to electrical power generation. The Corps granted the request in a letter to you on May 3, 2011 and imposed a 60 day deadline. On July 1, 2011, a member of your consulting team made an informal request for a 30-day extension. However, MCRG did not officially respond with a decision about how the EIS was to proceed or with direction that the third-party contractor (AECOM) was to resume work, as requested.

Since the start of the EIS process, the Corps has spent much time dealing with delays on the part of MCRG. As per regulations, the Corps has designated a single staff person to orchestrate a multitude of tasks, and we simply cannot continue to devote staff resources to a project with an uncertain and variable project purpose. The Corps is also guided by regulations found at 33 CFR 325.2(d)(5) to allow applicants sufficient time to respond to requests, not to exceed 30 days, unless justifiable reasoning for more time is provided. We have been more than accommodating in that regard.

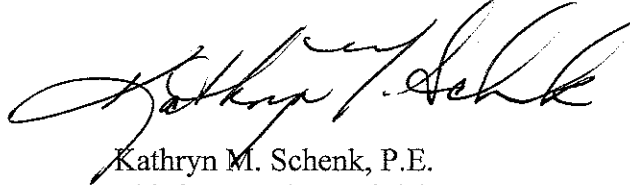
Additionally, Corps regulations at 33 CFR 325.1(d) require that a permit application, in order to be considered complete, must contain the purpose and need for the proposed activity. The original permit application submitted by you stated that the purpose of the project was water supply for southeastern Wyoming and the Front Range of Colorado. This project purpose was utilized for all EIS related work, to include public and agency scoping. The primary purpose of the project may now change to electrical power generation, an activity appropriately under the purview of the Federal Energy Regulatory Commission. Since the purpose of the project is now fluid and the need for a Section 404 Clean Water Act permit is uncertain, the Corps now considers your permit application incomplete.

Therefore, we are now withdrawing your permit application and terminating the EIS process. Concurrently, the Corps is issuing a Federal Register notice announcing that the EIS process has ended, and a Section 404 public notice announcing that the permit application has been withdrawn. Note that withdrawal of your permit application does not prohibit you from re-applying with a complete application at a later time.

From past communications with your group, it is our understanding that you may modify the proposed RWSP design such that no placement of fill would occur in Waters of the United States, including wetlands, thus avoiding Section 404 Clean Water Act regulations. Please be aware that if your project does end up involving a placement of fill into waters of the United States, a Section 404 Clean Water Act permit would be required, and the Corps would require a full scope of review to determine the environmental consequences, including development of project need to support the Corps' definition of the project purpose statement as well as a reasonable range of alternatives and their associated impact analyses and mitigation.

If you have any questions concerning this matter, please contact Ms. Rena Brand, EIS Manager, or Mr. Timothy Carey, Chief, Denver Regulatory Office, at (303) 979-4120.

Sincerely,



Kathryn M. Schenk, P.E.
Chief, Operations Division

Copies Furnished (via e-mail):

Rollin Daggett, AECOM
Beverley Heffernan, Bureau of Reclamation
Dave Simmons, Bureau of Land Management
Melanie Wasco, Environmental Protection Agency R8
Kathy Paulin, U.S. Forest Service – Ashley National Forest
Mary Risser, National Park Service, Dinosaur NM
Rebecca Mitchell, Colorado Department of Natural Resources
Mike Purcell, Wyoming Water Development Office
Judy Edwards, Utah Office of the Governor, Public Lands Policy Coordination
Jeff Comstock, Moffat County, Colorado
Wally Johnson, Chairman Commissioner, Sweetwater County, Wyoming
Jean Dickenson/Dave Allison, Sweetwater County Conservation District, Wyoming
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Mike McKee, Uintah County, Utah
Hank Castillon, Mayor, City of Green River, Wyoming
Craig Nelson, City of Rock Springs, Wyoming
James Fargo, Federal Energy Regulatory Commission