



REPLY TO  
ATTENTION OF:

DEPARTMENT OF THE ARMY  
SAVANNAH DISTRICT, CORPS OF ENGINEERS  
1590 ADAMSON PARKWAY, SUITE 200  
MORROW, GEORGIA 30260-1777

AUG 28 2015

*James C*  
SCANNED

Regulatory Division  
SAS-2000-03600

EXHIBIT

RECEIVED  
9-2-15

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The Honorable Keith Ellis, Chairman  
Newton County Board of Commissioners  
1124 Clark Street  
Covington, Georgia 30014

Dear Commissioner Ellis:

We refer to the Department of the Army Permit application, prepared on Newton County's behalf by Mr. William Thomas Craig of the Law Offices of Wm. Thomas Craig, LLC, for the proposed Bear Creek Water Supply Reservoir (Reservoir) to be located in southeast Newton County, Georgia (latitude 33.4817, longitude -83.7968). This project has been assigned number SAS-2000-03600, and it is important that you refer to this number in all communication concerning this matter.

This correspondence also confirms the August 25, 2015, meeting held in Savannah between Mr. Craig, Mr. David Lekson, Regulatory Division Chief, Ms. Kim Garvey Deputy Regulatory Division Chief, Ms. Paula Feldmeier, Savannah District Counsel, and Mr. Adam White and myself (via teleconference). At this meeting, Mr. Craig requested that special leniency be given in our review of your permit application due to the project's controversy and history. As the Corps is responsible for administering its Section 404 of the Clean Water Act (CWA) program with the diligence and fairness required by the CWA, the National Environmental Policy Act (NEPA), and the Administrative Procedure Act (APA), this is a request the Corps cannot agree to.

Following the September 4, 2014, supplemental public notice issued by the Corps in response to your request to modify the location of the proposed Reservoir dam and to add new project features (water treatment facility and attendant water transmission lines), the U.S. Environmental Protection Agency (USEPA) submitted comments disputing the Newton County population projections and the associated need for the project. The USEPA has also initiated the process to elevate this permit action pursuant to Section 404(q) of the CWA.

Please reference our meeting on February 13, 2015, where we discussed a number of issues remaining in our evaluation of your permit application for which additional documentation was required. For your reference, please see the enclosed memorandum of record dated February 24, 2015. As discussed with Mr. Craig at the August 25, 2015 meeting, the following issues remain to be resolved:

1. Existing Available Water Supply.

The Corps requested information on how the proposed Reservoir project (as modified) was needed in light of the findings in an independent review of the study that the permit application was based upon, the Newton County Water Supply Master Plan (Plan), by the Newton County Water and Sewer Authority (NCWSA). As Newton County's primary wholesale customer, NCWSA would draw from the proposed Bear Creek Reservoir. In that study, the NCWSA found that: a) there was no urgency to build the Reservoir; b) that a wiser use of funds would be to repair/upgrade Newton County's existing treatment facilities at a fraction of the cost to construct the proposed Reservoir and associated treatment plant and transmission mains; and c) that several flaws within the Plan itself deserved closer scrutiny (e.g., several deficiencies reported at the two water treatment plants that should be immediately verified and if found to be correct, should be immediately acted upon).

In order for the Corps to continue processing your permit application, these discrepancies must be reconciled with supporting documentation.

2. Project Purpose and Need.

Due to the fact that we have not received any of the information requested at the February 13, 2015, meeting, we remain at a standstill on completing evaluation of your permit application. While the questions pertaining to the purpose and need for this proposed Reservoir remained unanswered, we have since received updated Year 2015 population estimates from the Georgia Governor's Office of Planning and Budget (OPB) which project a nearly 50% drop in population between the information provided in your permit application and the referenced OPB population numbers for Newton County through the Year 2050. This substantial decrease in projected population growth, along with the USEPA's comments related to the need for the project, as well as the NCWSA study's findings, necessitates that the Corps reevaluate the current purpose and need for the proposed Reservoir.

In order for the Corps to continue processing your permit application, we require data supporting the stated purpose and need for the Reservoir utilizing the OPB's most current population projection estimates for Newton County.

### **3. Alternatives Analysis and Onsite Avoidance and Minimization.**

We also identified in our February 13, 2015, meeting that the study supporting the modification to the permit application did not have as its purpose the objective of determining the least environmentally damaging practicable alternative (LEDPA) as per Section 401(b)(1) of the CWA. Rather, the Schnabel Engineering study's objective was to develop a new conceptual design *"to reduce costs, improve resilience and operational performance, and/or to lessen impacts to local roads."* Consequently, the alternatives analysis based upon that study is inherently flawed.

In order for the Corps to continue processing your permit application, we require a revised alternatives analysis based on the objective of determining the LEDPA, instead of from a purely economical and logistical standpoint.

### **4. Compensatory Mitigation.**

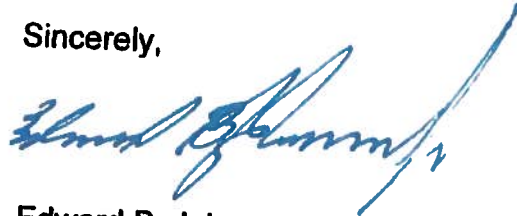
In correspondence dated April 2, 2015, we requested that you submit a revised compensatory mitigation plan to address deficiencies fully outlined in that letter. We subsequently received an extension request from Mr. Craig which we granted that provided him until July 6, 2015, to finalize and submit the revised mitigation plan. However, on July 10, 2015, the Corps received yet another request from Mr. Craig for an extension of an undefined length of time to finalize the revised mitigation plan. This extension has not been granted by the Corps.

Based on the above, the Corps is unable to continue its evaluation of your permit application and is therefore administratively withdrawing your application pursuant to 33 C.F.R. § 325.d(5). You may submit a future written request for reopening of the file when you are able to provide the requested information in its entirety.

A copy of this letter will be forwarded to the following: Honorable Levie Maddox, Vice-Chairman, Newton County Board of Commissioners, 1124 Clark Street, Covington, Georgia 30014; Mr. Tommy Craig, Law Offices of Wm. Thomas Craig, Post Office Box 1587, Covington, Georgia 30015; Mr. Tony Able, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth Street NW, Atlanta, Georgia, 30303; Dr. Robin Goodloe, U.S. Fish and Wildlife Service, Georgia Ecological Services, 105 Westpark Drive, Suite D, Athens, Georgia 30606; and Mr. Steve Wiedl, Georgia Environmental Protection Decision, 7 Martin Luther King, Jr. Drive, Suite 450, Atlanta, Georgia 30334.

Thank you for your time and cooperation. If you have any questions concerning this matter, please contact Mr. Adam White, Project Manager, at 678-422-2730.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward B. Johnson, Jr.", with a long, sweeping flourish extending upwards and to the right.

Edward B. Johnson, Jr.  
Chief, Piedmont Branch