



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
10117 PRINCESS PALM DRIVE, SUITE 120  
TAMPA, FLORIDA 33610

May 22, 2020

REPLY TO  
ATTENTION OF

Regulatory Division  
West Permits Branch  
Mining Team  
SAJ-2019-00480 (SP-JPF)

The Chemours Company FC LLC  
c/o Daniel LeJeune  
Kleinfelder, Inc.  
Via e-mail: dlejeune@kleinfelder.com

Dear Mr. LeJeune:

The Corps received your April 17, 2020 response to our March 19, 2020 public notice comment letter and request for additional information. The purpose of this letter is to identify what issues still need resolution in order for us to move forward with the review of this application:

**1. Section 7 of the Endangered Species Act:** As noted in your response, the U.S. Fish and Wildlife Service's 135-day review period closes around July 19, 2020. If we receive anything before that date, especially any requests for information, we will let you know as soon as possible. We will need to complete required coordination or consultation under Section 7 of the Endangered Species Act to complete our review of this project.

**2. Surface Water Quality, Surface Water Quantity, Groundwater Quantity:** Your response states that this information is part of the FDEP's review of the project, and that you will provide it when it becomes available. The Corps will need this information to review this project.

**3. Compensatory Mitigation:**

- a. Site Protection: Your response states that the Camp Blanding Joint Training Center (CBJTC) Integrated Natural Resource Management Plan (INRMP) covers the CBJTC proper and the areas covered under the Cooperative Management Agreement (CMA) between the Governing Board of the Suwannee River Water Management District (SRWMD) and the Florida Department of Military Affairs (DMA) (covered lands). The onsite mitigation areas and part of the offsite mitigation areas are within the covered lands. The remainder of the offsite mitigation areas are expected to be within the boundaries of the management agreement in the future.

§ 332.7(a)(1) states “For government property, long-term protection may be provided through federal facility management plans or integrated natural resources management plans.” The Corps has reviewed the INRMP, the CMA, and the October 31, 2015 SRWMD staff report to the SRWMD Governing Board.

Based on our review of that information, the Corps conceptually agrees that the INRMP provides or may provide in the future long-term protection for the mitigation areas. However, there are still concerns to address and questions to answer before the Corps can approve the INRMP as site protection:

i. In reference to potential activities on the covered lands, the staff report states:

“In all cases, management of water resources for District goals will take priority over other uses.”

The Corps also notes that silviculture is an expected activity on the lands covered by the INRMP, as are other resource “uses”; the proposed mining is a potential example. As stated in the staff report:

“Funds for Camp Blanding management would come from existing trust funds of Camp Blanding but would also come from the management of timber or other resources present on the property.”

Section 4.3 of the INRMP describes water resource management within the covered areas, including the establishment of riparian zones and Special Management Zones (SMZs) in accordance with Florida silviculture BMPs (in Section 4.3.3). Section 4.4 of the INRMP describes vegetation management, including limiting the size and location of clearcutting for timber, and riparian and wetland management associated. The INRMP does not specifically describe how these management activities would affect the proposed mitigation areas. As noted in Section 4.4.1, “Revenue from past timber cuts has supported many CBJTC operations, and sustained yield in forest products revenue is important for the continued support of these operations.”

These additional uses potentially conflict with § 332.7(a)(2), which states: “The real estate instrument, management plan, or other mechanism providing long-term protection of the compensatory mitigation site must, to the extent appropriate and practicable, prohibit incompatible uses (e.g., clear cutting or mineral extraction) that might otherwise jeopardize the objectives of the compensatory mitigation project.”

Please explain how the INRMP addresses incompatible uses specifically for the onsite and offsite mitigation areas, including an upland buffer that supports the functional analysis as proposed. Alternatively, the Corps has provided recommended adjustments to the functional analysis below in item 3(d).

Please note that if Chemours intends to address concerns with incompatible uses by making the CBJTC responsible for providing alternative mitigation and replacing lost mitigation function in accordance with § 332.7(a)(4), the Corps will need to determine how to make that plan part of the permit.

ii. The Corps notes that the INRMP is subject to internal annual reviews, reviews with the Florida Army National Guard, USFWS and the FFWCC at least every five years, and updates and revisions when necessary.

The Corps also notes that the CMA lasts for 25 years, with automatic renewal. However either the SRWMD or the DMA can terminate the CMA with or without cause with 90 days written notice. The CMA is also subject to review and modification, as is the INRMP.

Modifications, updates, and revisions to, and termination of, the INRMP or CMA appear to conflict with § 332.7(a)(3) which states:

“The real estate instrument, management plan, or other long-term protection mechanism must contain a provision requiring 60-day advance notification to the district engineer before any action is taken to void or modify the instrument, management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over, the compensatory mitigation site.”

Please explain how the INRMP and CMA will be modified to address this 60-day notification requirement.

b. Long-term Management:

i. The response did not address how the INRMP will specifically sustain the mitigation areas after they achieve the required performance standards (including the proposed functional analysis scores), in accordance with § 332.7(b).

Please explain how the INRMP will be modified to specifically address the long-term management of these areas to sustain the proposed standards, or consider the recommended adjustments to the functional analysis below in item 3(d).

- ii. Please provide confirmation that the CBJTC/DMA is aware that they will be the responsible party for the long-term management of the mitigation areas. The Corps will notify you if any additional actions are required related to the responsible party, prior to permit issuance.
- c. Long-Term Management Financial Assurance: Your response did not specifically address the financial assurance for the long-term management. As noted above, in the INRMP, and in the CMA, the DMA/CBJTC is responsible for funding the activities described in the INRMP. As also noted above, at times the harvesting or extraction of resources within the covered areas provides funding.

Section 5.1.2 of the INRMP states the following:

“The Office of Management and Budget considers funding for the preparation and implementation of this INRMP, as required by the SAIA, to be a high priority. However, the reality is that not all of the projects and programs identified in this INRMP will receive immediate funding. Projects need to be funded consistent with timely execution to meet future deadlines. Projects are generally prioritized with respect to compliance. Highest priority projects are projects related to recurring or current compliance, and these are generally scheduled earliest. As such, these projects have been placed into three priority-based categories: (1) high priority projects which are essential for maintaining compliance or for successful natural resources management, (2) medium priority projects with no immediate compliance requirement or less impact on the natural resources, and (3) low priority projects with a natural resources benefit but no legal driver. The prioritization of the projects is based on need, legal drivers, and ability to further implement the INRMP.”

The beginning of Section 5.3 of the INRMP states that “Implementation is subject to the availability of funding.”

§ 332.7(b) states:

“Where active long-term management and maintenance are necessary to ensure long-term sustainability (e.g., prescribed burning, invasive species control, maintenance of water control structures, easement enforcement), the responsible party must provide for such management and maintenance.”

Please provide a guaranteed funding mechanism for the long-term management of the mitigation areas that will neither require land uses within or in the vicinity of the mitigation areas that may impact the long-term success and sustainability of

the mitigation, nor be subject to budgetary uncertainties. The Corps notes that Section 5.3.4 of the INRMP includes the following language:

“Non-federal partnerships are beneficial to natural resources management and protection at CBJTC. Entering into cooperative or mutual aid agreements with states, local governments, non-governmental organizations, and other individuals is also a great source of additional resources.”

- d. Credit Determination: Based on our review of the proposed site protection and our understanding of reasonably foreseeable future land uses outside of the protected areas, the Corps does not accept the functional assessment of the proposed mitigation, especially with regard to the long-term success and sustainability of the proposed level of function.

For the onsite mitigation, the Corps recommends target UMAM scores in the range of the existing conditions. For example a location and landscape support score of 6, to reflect a slight increase from the existing conditions, a water environment score of 5, matching the predominant existing conditions, and a community structure score of 6, also reflecting a slight increase from the existing conditions.

The Corps has not yet been able to verify the UMAM scoring of the offsite mitigation areas, however it is likely that the recommended scoring will also be the same as or slightly better than the existing scores.

Please provide a revised functional analysis of the compensatory mitigation that reflects these recommended UMAM scores, with additional mitigation as necessary to offset any credit deficiencies, or provide an updated compensatory mitigation that supports the UMAM scores as submitted, including for long-term success and sustainability.

- e. Non-Covered Lands: As stated above, part of the area Chemours proposes to use as mitigation is not covered under the INRMP. Without site protection, the Corps cannot accept these areas as part of the compensatory mitigation plan. And, the Corps cannot authorize impacts without compensatory mitigation. Please either provide site protection for these areas, or revise the project to eliminate the acreage of impacts that require this amount of mitigation.

Please note that the Corps will write its decision document to reflect that we evaluated the total plan of development as proposed, and if we issue a permit for less than that proposed level of impact, we can condition the permit to allow for an expedited review of remaining impacts when mitigation becomes available.

- f. Implementation Financial Assurance: Your response states that you will provide this information once the Corps approves the final mitigation plan. The Corps still needs this information to review this project.
- g. Please provide the following appendices to the INRMP: B (the maps), F (the forestry plan), H (the reports summary), I (the cooperative agreements), and L (the annual review documentation).

The above information must be provided for us to complete our Department of the Army permit application review. Your application will be held in abeyance for 30 days pending receipt of your response. If we do not receive the requested information within 30 days, we will take final action on your Department of the Army permit application based on the information presently available to us, which may result in an unfavorable permit decision.

You are cautioned that work performed below the mean high waterline or ordinary high waterline in waters of the United States, or the discharge of dredged or fill material into adjacent wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a State permit does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

Should you have any questions or comments regarding this request for additional information, please contact the undersigned by electronic mail (preferred) at [john.p.fellows@usace.army.mil](mailto:john.p.fellows@usace.army.mil), at the letterhead address, or by phone at 813-769-7070 or 813-302-1987.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Fellows', with a long horizontal flourish extending to the right.

John Fellows  
Team Leader

Copies furnished:

Connie Henderson, Chemours  
Via e-mail: [connie.henderson@chemours.com](mailto:connie.henderson@chemours.com)

Noah Adams, Kleinfelder  
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