



DEPARTMENT OF THE ARMY
PITTSBURGH DISTRICT, CORPS OF ENGINEERS
WILLIAM S. MOORHEAD FEDERAL BUILDING
1000 LIBERTY AVENUE
PITTSBURGH, PA 15222-4186

December 22, 2023

Regulatory Division
LRP-2005-2397

Cyprus Amax Minerals Company
c/o Francis McAllister
333 North Central Avenue
Phoenix, AZ 85004

Dear Mr. McAllister:

I refer to your Department of the Army Permit application received in this office on November 15, 2023 regarding your proposal to permanently impact 0.08 acre of multiple Unnamed Tributaries to Cross Creek and 1.18 acre of wetlands to conduct restoration (vegetation/soil removal and stockpiling, slag consolidation and capping, and revegetation) of the former Satralloy site in Cross Creek Township, Jefferson County, Ohio. As compensation for the proposed impacts, the permittee will purchase a total of 2 acres of mitigation credits (0.5 forested and 1.5 non-forested) from an approved in-lie fee program.

Activities associated with projects of this type are authorized by Nationwide Permit (NWP) No. 38, Cleanup of Hazardous and Toxic Waste. The Ohio Environmental Protection Agency (OEPA) granted a general Section 401 Water Quality Certification (WQC), with conditions, for the NWPs, found at:

<https://www.lrp.usace.army.mil/Portals/72/OH%20Public%20Notice%20Final%2041%20NWP%202022.pdf>

A Section 401 Water Quality Certification (401 WQC), a waiver, or a Director's Authorization must be obtained from the Ohio Environmental Protection Agency (Ohio EPA) to validate this NWP verification. No work in waters of the United States in association with this project may commence until you receive the required 401 WQC, waiver, or a Director's Authorization from the Ohio EPA.

These NWPs were published in the December 27, 2021 issue of the Federal Register.

This NWP was previously issued by the Corps of Engineers, for purposes of Section

10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

For a list of conditions which must be followed for the NWP to be valid, refer to:
<https://www.lrp.usace.army.mil/Portals/72/OH%20Public%20Notice%20Final%2041%20NWP%202022.pdf>

Special Conditions:

1. The project site lies within the range of the Indiana bat (*Myotis sodalis*), and the northern long-eared bat (*Myotis septentrionalis*), which are federally-listed endangered species. Several factors have contributed to the two species decline, including habitat loss, fragmentation of habitat and the disease White Nose Syndrome. During winter, the two bat species hibernate in caves and abandoned mines. Suitable summer habitat for the Indiana bats and the northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 3 inches diameter at breast height (dbh) that have any exfoliating bark, cracks, crevices, hollows and/or cavities), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of other forested/wooded habitat. The permittee will preserve wooded/forested habitats exhibiting any of the characteristics listed above wherever possible. Should suitable habitat be present that cannot be saved during construction activities, any trees ≥ 3 inches dbh will only be cut between October 1 and March 31.
2. Proof of purchase of the required mitigation credits shall be provided to USACE before placement of fill commences.
3. Once you have successfully completed the state 401 WQC process, you must forward a copy of the project specific WQC to this office. The conditions of the project specific WQC will supersede the WQC conditions included with the NWP enclosed to this transmittal. If the project remains unchanged you may commence work under the enclosed NWP without any further coordination with this office. However, if your project is modified during the OEPA review you will need to contact this office to determine if the modified project is still authorized by the enclosed NWP. If this situation arises, you may need to furnish a revised permit application, and you may not commence work until you receive Department of the Army authorization.

Adherence to these conditions will permit you to proceed with the proposed project. Please note, the enclosed Compliance Certification Form must be signed and returned to this office upon completion of the proposed work.

The verification of this NWP is valid until March 14, 2026, unless the NWPs are modified, suspended, or revoked. If project specifications are changed or work has not been initiated before March 14, 2026, please contact this office for further verification.

The verification of this NWP will not relieve you of the responsibility to obtain any other required state, local, or Federal authorizations.

If you have any questions, please contact Michael D. Engelhardt by phone at (412) 395-7141 or email at michael.d.engelhardt@usace.army.mil. Please complete our customer survey online and provide us with feedback at <https://regulatory.ops.usace.army.mil/customer-service-survey/>.

Sincerely,

//SIGNED//

Tyler J. Bintrim
Chief, North Branch
Regulatory Division

Enclosure

cc:
OH EPA
Soil and Conservation District

Compliance Certification Form

PERMIT NO: LRP-2005-2397

NAME OF PERMITTEE: Cyprus Amax Minerals Company

DATE OF ISSUANCE: December 22, 2023

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Pittsburgh District
Regulatory Division, Room 2200
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Please note that your permitted activity is subject to compliance inspection by a U.S. Army Corps of Engineers Representative. If you fail to comply with this permit, you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee