



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
1875 Century Boulevard  
Atlanta, Georgia 30345



In Reply Refer To:  
FWS/R4/RD/080327

January 31, 2024

Mr. Jeff Cown, Director  
Georgia Environmental Protection Division  
2 Martin Luther King Jr. Drive, SE  
14th Floor East Tower – Suite 1456  
Atlanta, Georgia 30334-4713

Dear Director Cown:

As a follow up to my March 2023 letter, I am writing to formally assert the U.S. Fish and Wildlife Service's (USFWS) federal reserved water rights for the Okefenokee National Wildlife Refuge (ONWR). As Georgia Department of Natural Resources - Environmental Protection Division (GA-EPD) considers issuing a potential groundwater permit to Twin Pines Minerals, LLC (TPM) to withdraw water from the Upper Floridan Aquifer (UFA) and to dewater mining pits as part of the proposed mining project in Charlton County, Georgia, it is crucial to carefully consider the implications of such a decision on the delicate ecosystem of ONWR. Prior to any decision to issue or deny a permit, I request that the USFWS and the GA-EPD employees meet and work together to quantify the amount of water the ONWR needs to maintain its primary purpose.

Federal reserved water rights are the amounts of water sufficient to maintain the purpose of the ONWR. In 1937, President Franklin Delano Roosevelt established the ONWR by Executive Order pursuant to the Migratory Bird Conservation Act. The Executive Order reserves "all lands, including lands under water" within ONWR boundaries for the purpose of serving as a "refuge and breeding ground for migratory birds and other wildlife." The United States Supreme Court has long held the federal government has a right to preserve its water from subsequent diversion, whether the diversion is of surface water or groundwater. Cappaert v. U.S., 426 U.S. 128 (1976). The National Park Service (NPS) staff at the South Florida Natural Resources Center (SFNRC) conducted an Independent Technical Review of hydrological modeling of the proposed mining application. Based on the NPS review, significant questions were raised about the potential to directly impact ONWR, especially through the proposed water withdrawal from the UFA and the dewatering of mining pits. Dewatering of the mine pits alone could remove 16% of the total estimated recharge to the modeled area. Disruption to the natural flow of groundwater in this interconnected system could have far-reaching consequences for both the Refuge and surrounding areas. The mining operation, as originally proposed, could have a significant impact to groundwater through either withdrawals or re-direction of current flows. Without sufficient water, the primary purpose of ONWR could be compromised.

Given the significant role that water plays in sustaining the diverse flora and fauna within the ONWR, any decision regarding the proposed mining permit must be made with consideration of federal reserved water rights. It is imperative that these rights be safeguarded to ensure the long-term health and viability of the Okefenokee wetland ecosystem, safeguarding the integrity of ONWR is preserved for future generations to enjoy. We are concerned that the issuance of a permit at this juncture would not preserve sufficient water to fulfill the purposes for which ONWR was established.

Our teams need to meet to determine ONWR's water needs protected by the federal government's reservation prior to any action on the permit application. I look forward to scheduling the requested meeting.

Thank you for your time and attention to this incredibly important issue.

Sincerely,



Mike Oetker  
Acting Regional Director