DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 6898
JBER, AK 99506-0898

August 20, 2020

Regulatory Division
POA-2017-271

Mr. James Fueg
Pebble Limited Partnership
3501 C Street, Suite 501
Anchorage, Alaska 99503

Dear Mr. Fueg:

As you are aware, the U.S. Army Corps of Engineers, Alaska District (District) has completed the Final Environmental Impact Statement (FEIS) developed for review of your permit application submitted in December of 2017. The FEIS completed the National Environmental Policy Act analysis required for your proposed discharge of dredged and fill material into waters of the United States, including wetlands.

The District will next develop a Record of Decision (ROD) for your proposed discharge. As part of the ROD the District made Clean Water Act Section 404(b) (1) factual determinations that discharges at the mine site would cause unavoidable adverse impacts to aquatic resources and, preliminarily, that those adverse impacts would result in significant degradation to those aquatic resources. Therefore, the District has determined that in-kind compensatory mitigation within the Koktuli River Watershed will be required to compensate for all direct and indirect impacts caused by discharges into aquatic resources at the mine site. Direct and indirect impacts at the mine site total 2,825 acres of wetlands, 132.5 acres of open waters, and 129.5 miles of streams.

The District has also determined that compensatory mitigation is required for unavoidable adverse impacts to aquatic resources from discharges associated with the transportation corridor and the port site. Direct and indirect impacts associated with the transportation corridor and port site total 460 acres of wetlands, 231.7 acres of open waters, and 55.5 miles of streams.

The required components of a compensatory mitigation plan are identified in the Code of Federal Regulations at 33 CFR Part 332 and 40 CFR Part 230 Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (Rule). According to the Rule, compensatory mitigation means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances, preservation of wetlands, streams and other aquatic resources. There are three approved mechanisms for providing compensatory mitigation, which include mitigation banks, in-lieu fee programs, and permittee-responsible mitigation with preference, in that order. Your mitigation plan may include a combination of means and mechanisms but must comply with all required components of Rule and be found sufficient to offset the unavoidable adverse impacts to the aquatic resources identified above.

Please submit the required compensatory mitigation plan to the District within 90 days from the date of this letter. The District will review the compensatory mitigation plan upon submittal to determine if the amount and type of compensatory mitigation offered is sufficient to offset the identified unavoidable adverse impacts to aquatic resources and overcome significant degradation at the mine site, and to determine whether the plan meets all requirements identified in the Rule.

If you have any questions regarding this matter please contact me by telephone at (907) 753-2712 or by email at poaspecialprojects@usace.army.mil.

Sincerely,

David S. Hobbie

David S. Hobbie
Regional Regulatory Division Chief