UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 18 2016

REPLY TO THE ATTENTION OF:
WW-16J

Ms. Lee Anne Devine
Chief, Regulatory Branch
U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, Kentucky 40201-0059

Subject: Proposed Seven Hills Mine, Warrick County, Indiana, LRL-2013-635-GJD

Dear Ms. Devine:

This letter is in response to the letter sent to Robert Kaplan, Acting Regional Administrator, from Mr. George DeLancey of your staff on May 11, 2016. Mr. DeLancey requested that the U.S. Environmental Protection Agency provide the U.S. Army Corps of Engineers (Corps) with information to support the 3(b) letter EPA submitted to the Corps on May 10, 2016.

The 1992 Memorandum of Agreement (MOA) between the EPA and the Department of the Army defines a process and time frames for resolving disputes, in an effort to issue timely permit decisions. Following the process in the MOA, EPA sent the Corps a 3(a) letter on April 14, 2016, within the public comment timeframe. Following the outline of the MOA, within 25 days of the end of the public comment period, the EPA may issue a letter stating that the project will have substantial and unacceptable impacts to an aquatic resource of national importance. EPA did not receive a response from the Corps to our April 14, 2016 letter, or any additional information on the proposed Seven Hills Mine, and subsequently submitted the 3(b) letter on May 10, 2016.

EPA has previously provided information to the Corps supporting the 3(b) determination for the proposed Seven Hills Mine. As Mr. DeLancey noted in his letter, EPA attached detailed comments to the April 14, 2016 letter. Those comments are the culmination of EPA's extensive and thorough review of the proposed project going back to 2013. The comments are based on the application materials, specific onsite resources, proposed impacts, site visits and initial water quality modeling conducted by EPA.

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EPA's input and detailed comments throughout the pre-application process, the joint EPA and U.S. Fish and Wildlife Service letter of March 17, 2016, and EPA's April 14, 2016 3(a) letter and attachments, are the basis for EPA's May 10, 2016 3(b) letter and support EPA's opinion on: 1) why there will be substantial and unacceptable impacts to aquatic resources of national importance: Pigeon Creek, its floodplain forested wetlands and the Ohio River; 2) why the specific permit must be denied as proposed to protect aquatic resources of national importance; and 3) how our determination was made. The letters are enclosed.

Please contact Wendy Melgin at (312) 886-7745, if your staff requires additional explanation of EPA's position. We look forward to continuing our coordination with you and the Fish and Wildlife Service on this project.

Sincerely,

Tinka G. Hyde

Tinka G. Hyde
Director, Water Division

Enclosures
March 17, 2016 USEPA and FWS Letter (w/attachments)
April 14, 2016 USEPA 404 Comment Letter (w/attachments)

cc: George DeLancey, Army Corps of Engineers (via email)
Michael Ricketts, Army Corps of Engineers (via email)
LeAnn Devine, Army Corps of Engineers (via email)