Disclaimer: This document is a working document. This document may change over time as a result of new information, further deliberation or other factors not yet known to the co-lead agencies.

EPA Comment #7: The SDEIS anticipates that pollutants will be discharged from mine site features, travel via groundwater pathways and reach the Partridge River several years following the start of the mining project. See SDEIS Table 5.2.2-26. However, as EPA has stated previously, the pollutants originating from mine site features may discharge to jurisdictional wetlands and tributaries prior to reaching the Partridge River. CWA Section 301 prohibits any point source discharge of pollutants to waters of the United States, either directly or via directly connected ground water, unless the discharge complies with a NPDES permit. Waters of the United States include jurisdictional wetlands and tributaries. See 40 CFR 122.2.

> **Recommendation**: The FEIS should reflect the fact that a NPDES permit is required before the pollutants from the mine site reach waters of the U.S. (including jurisdictional wetlands and tributaries). Statements in the SDEIS about when discharges will reach waters of the U.S. should be revised, and these changes should be reflected in the FEIS.

<u>DRAFT</u> Response to EPA Comment #7: It is acknowledged that while there could be groundwater discharge to jurisdictional wetlands along a flowpath, this process is not incorporated into the GoldSim model because it is considered speculative and quantitatively uncertain. The EIS considers that permitting for the NorthMet Project Proposed Action, if approved, would require wetland monitoring. This would likely include water levels and water quality in groundwater and potentially affected wetlands during operations, reclamation, and closure to identify mining effects, if any, on waters of the U.S. If this monitoring identifies the potential for violation of applicable regulatory criteria, adaptive and/or contingency mitigation measures would be initiated to mediate the impact and/or water quality permits would be modified/reissued to administratively address associated regulatory concerns. See FEIS Section 5.2.2.3.6 for more information on groundwater and wetland monitoring and possible future mitigations.

The FEIS will state than an NPDES permit would be required for any point source water discharge that adds pollutants to waters of the U.S. The final EIS correctly identifies the waters of the U.S.

DRAFT