DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

REPLY TO
ATTENTION OF

June 10, 2015

Ms. Margaret Watkins
Grand Portage Water Quality Specialist
P.O. Box 428
Grand Portage, MN 55605

Dear Ms. Watkins,

This is in regard to the letter we received from you dated April 30, 2015, which expresses concern with the U.S. Army Corps of Engineers (Corps) and U.S. Forest Service (USFS) responsibility for the accuracy and integrity of the content of the joint environmental impact statement (EIS) being developed for the NorthMet Mine project. As you note in Part I of your letter, 40 C.F.R. § 1506.5(c) provides for the use of third party contracts in the preparation of agency EISs. Where a third party contractor is used, the responsible agency or agencies are to independently evaluate the EIS prior to its approval and take responsibility for its scope and contents. The Corps' regulations at 33 C.F.R. § 325, Appendix B, para 8(f), similarly allow for a contractor to prepare an EIS with the Corps independently evaluating the information and its accuracy.

The Corps has properly utilized the procedures described above for the National Environmental Policy Act (NEPA) analysis for this project. To the extent that the Corps relies on Minnesota Department of Natural Resources (MDNR) and the U.S. Forest Service (USFS) as Co-lead agencies with respect to water modeling, doing so is consistent with both Council for Environmental Quality and Corps regulations emphasizing cooperation and reduction of duplication. For example, 40 C.F.R. § 1506.2 encourages federal agencies to cooperate with state agencies "to the fullest extent possible to reduce duplication." Corps regulations at 33 C.F.R. § 320.1(a)(5) explain that the "Corps believes that state and federal regulatory programs should complement rather than duplicate one another" and that the Corps will use, among other things, joint processing procedures, interagency review, and coordination to reduce duplication. This is particularly appropriate here, where the proposed project includes not only a discharge of dredged or fill material over which the Corps has regulatory jurisdiction but also other construction or work that would ordinarily be outside the purview of the Corps' jurisdiction. In these circumstances, Corps regulations provide that while the NEPA review extends to the entire project and includes "direct, indirect, and cumulative impacts on all Federal interests within the purview of the NEPA," the Corps should "whenever practicable, incorporate by reference and rely upon the reviews of other Federal and State agencies." 33 C.F.R. § 325, Appendix B, para 7(b)(3).

Part III of your letter describes a number of concerns you have with respect to the water modeling on the project. The MDNR and USFS have met with the Tribal Cooperating agencies to obtain their perspective on their modeling effort, and this information is being considered as a

result of those meetings. In addition, the Co-leads will continue to consider your comments throughout preparation of the final EIS.

In closing, the Corps receives information from the MDNR, USFS, and Cooperating Agencies on many aspects of the project, such as groundwater modeling, and has regularly scheduled meetings with the MDNR and its consultant, Environmental Resources Management, to discuss outstanding issues as well as the status of those issues. The Corps will continue to share responsibility for management of the NEPA process, engage in joint coordination and planning processes, and review environmental research and studies in accordance with our regulatory obligations. We take seriously our regulatory responsibility to ensure the accuracy and the professional and scientific integrity of the content of the NorthMet Mine EIS.

Again, I would like to thank you for bringing your concerns to our attention. Please feel free to contact Douglas Bruner at 651-290-5378 or by email at douglas.w.bruner@usace.army.mil if you have questions or require additional information.

Sincerely,

Timothy Smith
Acting Branch Chief, Regulatory Branch
U.S. Army Corps of Engineers