

6.2.5 Proposed Compensatory Mitigation

The applicant was informed, in a letter dated August 20, 2020 that compensatory mitigation is required to offset the direct and indirect impacts caused by discharges into aquatic resources at the mine site totaling 2,825 acres of wetlands, 132.5 acres of open waters, and 129.5 miles of streams. In addition, compensatory mitigation is required to offset the direct and indirect impacts associated with the transportation corridor and port site totalling 460 acres of wetlands, 231.7 acres of open waters, and 55.5 miles of streams.

The applicant submitted a final compensatory mitigation plan entitled *Pebble Project, Compensatory Mitigation Plan, Final Report*, and dated November 2020 (Final Report, Attachment B5 of this ROD). In order to offset the direct and indirect impacts caused by discharges into aquatic resources at the mine site and the transportation corridor, the applicant proposed permittee responsible compensatory mitigation, in the form of on-site and in-kind preservation. Specifically, the applicant proposed to preserve a 112,445-acre area in the Koktuli

River watershed, including 31,026 acres of aquatic resources. No compensatory mitigation was proposed by the applicant to offset impacts from the port site.

6.2.6 Mitigation Summary

As documented in Attachment B of this ROD, the applicant's proposed compensatory mitigation plan, as documented in their Final Report, dated November 2020, is not compliant with USACE regulations, including 33 CFR 332 and 40 CFR 230. As identified in Attachment B6 to this ROD, Memorandum for the Record dated November 9, 2020, Compliance Review of Final Report, Pebble Project Compensatory Mitigation Plan in accordance with 33 CFR 332, POA-2017-271, the plan has been found noncompliant with nine specific requirements of rule to include lack of detail to determine compensatory mitigation sufficiency, lack of information for preservation waiver, insufficient amount of compensatory mitigation, inadequate site protection, omission of a maintenance plan, omission of performance standards, omission of long term management plan, inadequate monitoring and omission of financial assurances. Therefore, the compensatory mitigation offered is inadequate to overcome the significant degradation identified in the 404(b)(1) analysis rendering the permit application noncompliant with the 404(b)(1) Guidelines.