

**US Fish and Wildlife Service Comments – Pebble Project Preliminary Draft EIS, Chapter 5 – Mitigation**

<b>Agency</b>	<b>Comment No.</b>	<b>Section, Paragraph, and Page #</b>	<b>Cooperating Agency Comment (and Purpose of Comment)</b>	<b>Proposed Resolution (Additions or Deletion of Text)</b>	<b>Response</b>
USFWS	1	Section 5.1 Introduction	<p>The Service recommends this section incorporate information found in Section 5.1.3.</p> <p>Because this Federal document analyzes the environmental impacts of a Federal action, it is important to lay the foundation of how the NEPA and its guiding regulations drive the analysis of mitigation as well as environmental impacts.</p>	<p>The Service recommends adding the following text to the introduction section: “The primary purpose of an environmental impact statement is to insure the goals defined in the National Environmental Policy Act are incorporated in the actions of the federal government, to provide full and fair discussion of significant environmental impacts, and to inform decision makers and the public of the reasonable alternatives, which would avoid or minimize adverse impacts and enhance the quality of the human environment (40 CFR 1502.01).”</p>	<p>Comment noted. Chapter 5 provides a brief overview of NEPA and CWA guidance as it pertains to mitigation. Chapter 1 describes the purpose of the EIS and Appendix B documents the process for determining a reasonable range of alternatives for detailed analysis in the EIS.</p>
USFWS	2	Section 5.1.2 Definitions and Processes	<p>The Service recommends the definition of the term “mitigation” be moved from Section 5.1.3 to this section on definitions. This would help clarify that this DEIS will be using the terms and processes defined in the NEPA Regulations (40 CFR 1508.20).</p> <p>“Mitigation” includes the following:</p> <ul style="list-style-type: none"> <li>• Avoiding the impact altogether by not taking a certain action or parts of an action;</li> <li>• Minimizing impacts by limiting the degree or magnitude of the action and its</li> </ul>		<p>The 40 CFR 1508.20 definition of mitigation has been added to Table 5-1 as suggested and information in Sections 5.1.1 and 5.1.2 were consolidated into one overview section.</p>

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			<p>implementation;</p> <ul style="list-style-type: none"> <li>• Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;</li> <li>• Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and</li> <li>• Compensating for the impact by replacing or providing substitute resources or environments.</li> </ul>		
USFWS	3	Table 5-1	The Service recommends Table 5.1 either describe the common mitigation terms as listed above and in 40 CFR 1508.20, or the title of the Table should be changed to “Terms Used in the EIS” as is currently labeled in the first column.		The title of Table 5-1 has been changed and the 40 CFR 1508.20 definition of mitigation has been added to the table.
USFWS	4	Table 5-1	The Service recommends revising the language used to describe Agency Considered Mitigation. Currently the focus of the definition is related to permit conditions. Since this is an environmental impact analysis required under the NEPA, and not a permitting document, we recommend that the text disclose the responsibility of Federal agencies to consider and include appropriate mitigation measures not already included in the proposed action or alternatives to prevent or eliminate damage to the “human environment” (defined below; 40 CFR 1508.20, 40 CFR 1502.14, and CEQ 2011).		The definition of Agency Considered mitigation has been revised.
USFWS	5	Table 5-1	The Service recommends using the NEPA Regulations (40 CFR 1508.14) to define		A footnote has been added to Table 5-1 to

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			“human environment,” which comprehensively includes, “the natural and physical environment and the relationship of people with that environment.” It is particularly important to define “human environment” for this project due the relationship of Native Alaskans with subsistence, cultural, and socio-economic resources in this area.		define human environment.
USFWS	6	Section 5.2.1	The Service suggests moving the discussion about the Department of Natural Resources’ Permitting for Large Mine Projects in Alaska from under the NEPA title. Although the information presented is good, it describes a State process, not one required by the NEPA. Another solution would be to remove the term “NEPA” from the heading of Section 5.2.1.		Comment noted. Section 5.2 describes avoidance and minimization measures that would be incorporated as an integral component of the proposed project (Sections 5.2.1 through 5.2.2) and additional measures identified or recommended during the NEPA process that have been compiled and will be considered by the USACE and cooperating agencies as part of their permit decisions to further minimize project impacts (Section 5.2.3). The summary of state permitting for large mine projects in Alaska (Section 5.2.1.1) demonstrates permitting processes and regulatory requirements that are established to ensure that projects are designed, operated, and reclaimed in a manner consistent with applicable laws and regulations. It also describes coordination between the state and federal processes. This is appropriate for Section 5.2.
USFWS	7	Table 5-2	The Service recommends relocating and providing a reference to the information in Table 5-2. Given that all of the actions listed in Table 5-2 are design features of the proposed action, and many are standard operating procedures that will be analyzed under the proposed alternative,		Comment noted. Table 5-2 represents the Applicant’s proposed mitigation, as provided to USACE. Per CEQ 2011, an example of mitigation measures that are typically included as part of the proposed action are agency standardized best management practices, such as those

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			this could be moved with just a reference to where it can be found, to reduce redundancy. Mitigation actions listed in Table 5.2 that are beyond those required by law could be added to the additional analysis of mitigation measures that were not included in the proposed action (as suggested below in our comments on Chapter 5.2.3 Additional Mitigation). Footnotes could be used to indicate it is mitigation included in the proposed action.		developed to prevent storm water runoff or fugitive dust.
USFWS	8	Section 5.2.3	The Service recommends the USACE collaborate with the cooperating agencies to develop appropriate mitigation measures to avoid and minimize impacts to the human environment. The Service is available to provide this technical assistance.		Comment noted. The Draft EIS presents the mitigation measures that were suggested during scoping and by cooperating agencies when developing the Draft EIS. Reasonable mitigation measures suggested during the public comment period on the Draft EIS will also be considered in the Final EIS. USACE will collaborate with the cooperating agencies to assess the suggested mitigation measures.
USFWS	9	Section 5.2.3	We recommend this section include all reasonable mitigation measures. According to the Council for Environmental Quality (CEQ), “All relevant, reasonable mitigation measures that could improve the project are to be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and thus would not be committed as part of the RODs of these agencies (1981).” The CEQ (1981) further explains, “This will serve to alert agencies or officials who can implement these extra measures, and will encourage them to do so...” In conclusion, the CEQ		Comment noted. The Draft EIS presents the mitigation measures that were suggested during scoping and by cooperating agencies when developing the Draft EIS. Reasonable mitigation measures suggested during the public comment period on the Draft EIS will also be considered in the Final EIS. USACE will collaborate with the cooperating agencies to assess the suggested mitigation measures.

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			(1981) points out, this is “because the EIS is the most comprehensive environmental document, it is an ideal vehicle in which to lay out not only the full range of environmental impacts but also the full spectrum of appropriate mitigation.”		
USFWS	10	Table 5-3	The Service recommends replacing Table 5-3 with additional mitigation measures that have not already been included in the proposed action or alternatives. This will allow the environmental impacts of the proposed action and the alternatives to be analyzed in comparative form, to more sharply define the issues and provide a clear basis for choice among options by the decision maker and the public (40 CFR 1502.14).		Comment noted. Appendix M includes a preliminary assessment of mitigation measures identified during the EIS process that were not already included in the proposed action. Table 5-3 was deleted from Chapter 5 because it contained only a partial list of additional measures (the ones that were assessed as likely to be implemented), which was confusing to reviewers. All suggested mitigation measures listed in Appendix M were assessed with the goal of determining the likelihood of adoption by the applicant or implementation as a condition in a state, federal, or local permit, if issued for the project. This list will be updated after public review of the Draft EIS for a comprehensive list of all measures identified during the NEPA process.
USFWS	11	Table 5-3	We recommend removal of the term “Likely to be Implemented” from the Table 5-3 title and making the likelihood that mitigation and monitoring will be implemented a column instead, so the full spectrum of appropriate mitigation may be considered in the EIS (CEQ 1981).		As noted above, Table 5-3 was deleted from Chapter 5. However, the likelihood of implementation is a column in Table M-1 of Appendix M, which includes a list of all mitigation measures identified to date during the EIS process.