



Mille Lacs Band of Ojibwe Indians

*Executive Branch of Tribal Government
Office of the Chief Executive*

Virgil Wind, Chief Executive
Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, MN 56359

April 7, 2026

Colonel Matthew Chase
District Commander, St. Paul District
U.S. Army Corps of Engineers
180 Fifth Street East, Suite 700
St. Paul, Minnesota 55101

Re: Mille Lacs Band of Ojibwe Formal Consultation Comments — Talon Metals Tamarack Mine Proposal, Clean Water Act Section 404 Permit Application, St. Paul District

Dear Colonel Chase:

I write on behalf of the Mille Lacs Band of Ojibwe (the “Band”) to present our formal government-to-government consultation comments on the pending Clean Water Act Section 404 (§404) permit application submitted by Talon Metals Corporation for the proposed Tamarack nickel-copper mine in Tamarack, Minnesota. The Band is a federally recognized Tribal Nation whose treaty rights to hunt, fish, and gather—including the right to harvest wild rice (Manoomin)—in the 1837 and 1842 ceded territories and in other areas, are legally enforceable and must be considered in the Army Corps of Engineers’ (the “Corps”) Public Interest Review.

The proposed mine involves permanent filling of approximately 20.5 acres of wetlands, excavation of peatlands, rerouting of jurisdictional ditches, construction of a 1.5-mile railway spur and rail yard through hydric soils, and continuous discharge of treated contact water and industrial stormwater to a drainage system that ultimately reaches Big Sandy Lake—a waterbody of profound cultural, spiritual, historical, and ecological significance to the Band.

The Band presents the following formal requests. We ask that the Corps address each point specifically and in writing as part of the administrative record for this permit.

1. Establish a Formal Consultation Framework Before Substantive Permit Review Proceeds

The Band asks you to commit in writing to a defined consultation framework that specifies:

- a. what the Corps recognizes as formal government-to-government consultation versus informal staff coordination;
- b. timelines for sharing permit application materials, draft decisions, and comment opportunities with the Band; and
- c. when the Corps will initiate NHPA Section 106 consultation with the Band's Tribal Historic Preservation Officer (THPO).

This framework must be established and documented before substantive review of the permit application proceeds.

2. Deliver a Written Government-to-Government Response in the Administrative Record

The Band asks the Corps to issue a formal written response to the Band's consultation comments as part of the official permit decision record, specifically addressing water quality impacts to Big Sandy Lake as the ultimate receiving waterbody. This written response is distinct from—and in addition to—any general public comment response.

3. Require Disclosure of the Full Ore Transport Chain and Condition the §404 Permit on Evaluation of Interstate Transport Corridor Impacts

The railway spur and rail yard that constitute primary §404 triggers in this application are not incidental infrastructure—they are the mechanism by which nickel-copper ore concentrate will be transported out of Minnesota for processing in other states. MN DNR and MPCA hold authority only within Minnesota's borders. The Corps does not face that limitation. A §404 permit that authorizes the infrastructure enabling interstate ore shipment, without examining what happens after ore crosses the state line, is an incomplete exercise of the Corps' Public Interest authority.

The Band asks the Corps to require the applicant to disclose, as part of the permit application record:

- a. the identity and location of all processing, smelting, or refining facilities that will receive ore concentrate transported via the permitted rail infrastructure, including any executed or anticipated off-take agreements;
- b. the complete rail transport route from the Tamarack Mine to each destination facility, including identification of any wetlands, Waters of the United States, Indian Reservations, Treaty-ceded Territories, or Tribal trust resources crossed or affected by that route; and

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- c. any known or anticipated environmental releases—including acid mine drainage, ore dust, or process water—associated with ore handling, loading, and transport along the interstate rail corridor.

The Band further asks the Corps to formally assess, as part of its Public Interest Review, the reasonably foreseeable environmental effects of the ore transport chain that the permitted wetland fill directly enables, and to confirm in writing whether it has contacted the Corps' Omaha, Chicago, and Detroit districts in North Dakota, Wisconsin, and Michigan regarding whether any portion of the ore transport route or receiving facility requires separate federal authorization.

4. Require Independent Field Verification of the Wetland Delineation

With 302 acres of delineated wetlands claimed within a 378.8-acre project area, the scope and accuracy of the applicant's delineation directly determines how much impact is authorized and how much mitigation is required. The Band asks the Corps to conduct—or require an independent contractor to conduct—a field verification of the applicant's wetland delineation before accepting it as the basis for the permit. The Band should be given the opportunity to participate in or observe any field verification process.

5. Require Watershed-Specific Compensatory Mitigation Within the Big Sandy Lake Drainage

The Band asks the Corps to condition any permit on compensatory mitigation credits being sourced from within the Big Sandy Lake watershed—specifically from the Tamarack River or Sandy Lake River sub-drainages—rather than allowing out-of-watershed mitigation banking. The EAW is completely silent on mitigation location, which is a critical gap. Out-of-watershed banking cannot compensate for hydrological and ecological losses experienced by downstream resources that the Band and other Tribes depend upon for fishing, hunting, and gathering under treaty and cultural rights.

6. Require a Hydrological Connectivity and Water Quality Impact Study for Big Sandy Lake

The Band asks the Corps to require—as a condition of permit issuance, not as a post-permit condition—an independent hydrological study that traces both drainage pathways:

- County Ditch 13 → Tamarack River → Prairie River → Big Sandy Lake; and
- County Ditch 23 → Minnewawa Creek → Sandy River → Big Sandy Lake.

This independent study must model contaminant transport under normal operations, storm events, and failure scenarios. The Band must have formal input into the study scope and the selection of the independent reviewer, and the study must be completed and reviewed before the permit is issued.

7. Require a Cumulative Mercury and Ditch Hydrology Impact Analysis as a Pre-Permit Condition

The Band asks the Corps to require—before permit issuance—a cumulative impacts analysis that:

- a. treats the existing ditching of the wetlands as a baseline prior impact requiring evaluation alongside new project impacts;
- b. assesses existing mercury concentrations in County Ditch 13 and County Ditch 23 and models how ditch rerouting, filling, or new excavation could increase mercury loading to the Tamarack River and ultimately Big Sandy Lake; and
- c. establishes pre-construction baseline mercury data so that any post-construction change in mercury transport can be measured, attributed, and enforced.

Remediation after the fact—including monetary settlements—cannot restore the natural resources the Band relies upon once mercury and other pollutant loading has degraded Big Sandy Lake.

8. Require Enforceable Stormwater Discharge Standards, Pre-Discharge Sampling, and Post-Closure Regulatory Continuity

The Band asks the Corps to write into the §404 permit:

- a. minimum retention time requirements for industrial stormwater in wet sedimentation basins before discharge;
- b. mandatory pre-discharge contaminant sampling and enforceable discharge thresholds protective of wild rice, fish, and Tribal subsistence resources; and
- c. contingency protocols for treatment plant failure, maintenance downtime, or storm events exceeding system capacity.

The Band further asks you to commit—in coordination with MPCA and MN DNR—to a clearly designated lead enforcement agency for post-closure hydrological discharges to the Big Sandy Lake watershed, so that no regulatory gap exists between mine closure and long-term environmental accountability.

9. Require Coordination with the Corps' Own Manoomin Water Management Process and Condition the Permit to Protect Wild Rice in the Big Sandy Lake Watershed

The Band has submitted detailed formal comments to the Corps' Tribal Nations Technical Center of Expertise (TNTCX) Manoomin Water Management process, documenting Manoomin habitat conditions, treaty-based harvest rights, and water quality sensitivities at Big Sandy Lake. These are not separate, siloed proceedings—both concern Corps decisions affecting the same watershed and the same trust resources.

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The Band requests that the Corps:

- a. treat the Band's Manoomin water management submissions as part of the administrative record for this §404 permit;
- b. condition the §404 permit on the applicant demonstrating, prior to permit issuance, that discharges to the Big Sandy Lake watershed will not cause sulfate, mercury, or sediment loading that exceeds thresholds protective of wild rice, consistent with Minnesota's sulfate standard for wild rice waters (Minn. R. 7050.0224); and
- c. include an enforceable permit condition requiring the applicant to consult with the Band before any discharge event or operational change that could affect Manoomin beds in Big Sandy Lake, consistent with the Band's treaty-reserved usufructuary rights to harvest wild rice in the 1837 and 1842 ceded territories, and in other areas.

The Mille Lacs Band of Ojibwe stands ready to engage in meaningful government-to-government consultation on each of the matters raised above. We ask that the Corps respond to this letter in writing, with a specific response to each of the nine requests set forth herein, before advancing substantive review of the permit application.

The Band's treaty rights are not advisory considerations—they are legally enforceable federal obligations. The Corps' Public Interest Review must reflect that. We appreciate your attention to these matters and look forward to your response. Should you have further questions, please contact Commissioner Kelly Applegate by e-mail at kelly.applegate@millelacsband.com.

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Virgil Wind
Chief Executive
Mille Lacs Band of Ojibwe

cc:

Kelly Applegate, Commissioner of Natural Resources, Mille Lacs Band of Ojibwe
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