

PSPA
PACIFIC SEAFOOD PROCESSORS ASSOCIATION
Est. 1914

June 29, 2018

Shane McCoy
United States Army Corps of Engineers
Alaska District
Anchorage Field Office,
Regulatory Division (1145) CEPOA-RD
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Re: Comments for the Pebble Project EIS Scoping Process

Dear Mr. McCoy:

As the Army Corps of Engineers (Corps) carries out its scoping phase for the Pebble Project Environmental Impact Statement (EIS) process, the Pacific Seafood Processors Association (PSPA) has serious concerns with this process and, should the project proceed, has identified several impacts that we believe must be thoroughly analyzed and documented in a formal EIS process.

PSPA is a nonprofit trade association that represents the policy interests of our nine member processing companies, which purchase and process 25-30% of the seafood produced in the U.S. Our members, along with our harvesting partners and hundreds of support sector businesses, are heavily dependent on the wild, healthy, and abundant salmon populations that return to Bristol Bay annually. Bristol Bay's wild salmon fisheries brought in 211 million pounds and 219 million pounds of salmon in 2016 and 2017, respectively, worth hundreds of millions in domestic and foreign markets. Forecasts for 2018 are similarly strong. The Bristol Bay fishery supports more than 12,000 jobs in harvesting, processing, and other direct activities, allowing us to deliver healthy, sustainable salmon to consumers in the U.S. and around the world.

Our members and partners dependent on Bristol Bay salmon share grave concerns about the proposed Pebble Project, one of the largest and the most controversial extraction projects in the history of Alaska. The mining activities proposed by Pebble Limited Partnership (PLP) could lead to significant, permanent changes to the habitat upon which salmon depend, potentially leading to permanent harm to Alaska's wild salmon fisheries and loss of a 125+ year old economic engine and a trusted U.S. seafood product widely demanded by consumers. Given these risks, PSPA seeks to ensure that the EIS process is carried out with the highest degree of integrity, rooted in an open, fair, and transparent scoping process as well as thorough analysis of all potential impacts of concern to stakeholders.

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Concerns with the Scoping Process

We note the Corps extended the duration of the initial scoping process by sixty days, but the overall comment period still falls short of what is needed to fully review, digest, and understand the universe of actions, alternatives, and impacts that could arise from the Pebble Project and its associated pipeline, transportation, and other infrastructure. Moreover, information provided by PLP has been incomplete or subject to change, as described in detail in the enclosed letter (dated June 5th) submitted by Bristol Bay Native Corporation, Bristol Bay Economic Development Corporation, United Tribes of Bristol Bay, Bristol Bay Native Association, and Nunamta Aulukestai. These groups describe critical gaps in the technical and substantive information provided by PLP, which even the Corps has attempted to fill through dozens of requests for information. As the letter notes, PLP has answered only a fraction of these requests, often with incomplete information or statements that further studies must be undertaken.

Exacerbating our concerns about critical gaps in information submitted by PLP as initially proposed, it is clear that the scale of the project has expanded substantially. On May 11, 2018 PLP submitted a “Technical Notes on Updates” document¹ that describes a number of significant operational modifications, including a 25% increase in material to be mined, increases in tailings volumes and pit dimensions, new locations for critical infrastructure, and increases in volume of traffic. These late changes during the scoping period, in combination with the ongoing lack of analytical and technical information described above, compel us to conclude that the project as currently defined does not provide a comprehensive picture of the actual project once completed and is not ready for public review.

We question how the Corps was able to find that the Pebble Project was properly defined and decided to deem this permit application complete, and how it can reasonably expect the concerned public to understand and appropriately identify significant issues in the EIS scoping process, which is the primary purpose of scoping.² The gaps in information and ongoing changes preclude informed input. We also question the Corps’ decision to commit its limited budget, staff, and other administrative resources to this EIS process, considering that PLP has not yet demonstrated that the Pebble Project is financially viable. In fact, the project recently lost its last major investor after already losing the interest of several other investment houses, suggesting that financial viability is unlikely.

We find that proceeding with this project goes against EIS principles as established by the National Environmental Policy Act (NEPA). In carrying out NEPA, agencies must make sure the proposal is properly defined³ and, if significant new circumstances or information arise which bear on the proposal or its impacts, the agencies should revise its approach to reaching determinations.⁴ We also find it unacceptable to undertake an EIS process that could ultimately cost millions in taxpayer dollars, for a project that is not financially viable. **We urge the Corps to suspend this scoping process and not restart it until PLP has submitted all necessary technical and financial data, the Corps deems the information complete, and a new package of permit-related material is posted for public review. Then, a new 90-day public scoping process could begin.**

Impacts to be Analyzed in the EIS

While PSPA strongly recommends that the Corps halts the Pebble Project EIS work, should agency leaders choose to proceed with the scoping process and begin work on a full EIS, PSPA has identified

¹ See link via <https://pebbleprojecteis.com/overview/projectoverview>

² 40 C.F.R. § 1501.7

³ 40 C.F.R. § 1502.4(a)

⁴ 40 C.F.R. § 1501.7(c)

several near-certain impacts of the Pebble Project that must be fully analyzed and documented in any forthcoming Pebble Project EIS. Despite PLP's decision to withhold, or not prepare, information on exact specifications and technical designs, we are confident that the Pebble Project will impact fish habitat, short and long-term fish productivity, and fishery markets. If and when specific details of a final Pebble Project come to light, it will be the Corps' responsibility to make sure that appropriate and commensurate impacts are analyzed according to project size and scale, shared with affected stakeholders, and used to properly inform any final permitting decisions.

The Pebble Project will lead to a range of complicated, interrelated, and significant impacts. Environmental impacts likely include damage to fish habitats and essential freshwater ecosystems and loss of productivity in a wild fishery that would otherwise be sustainable for generations. The low-recovery rate, acid-generating mining process at the headwaters of Bristol Bay will generate waste that will need to be monitored and managed in perpetuity. While a mine of this type and scale is unprecedented in Alaska, evidence from the historical and current operation of similar large mines suggests some failure of water collection and treatment systems would be expected to occur during operation or post-closure periods, releasing toxic waste with the potential to cause immediate, severe impacts on salmon, and detrimental, long-term impacts on salmon habitat and production.⁵ The Corps must account for the "irreversible and irretrievable commitments of resources" which would be involved in addressing these impacts,⁶ including costs of habitat restoration and pollution containment. The billions of dollars the federal government has been obligated to pay for salmon restoration in Pacific Northwest rivers, while restoring a fraction of historical salmon runs, could be a starting point for assessing long-term costs.

NEPA regulations also require analysis of "indirect effects" that include "economic, social, or health" in an EIS.⁷ Given those requirements, PSPA has chosen to specifically highlight two categories of impacts in this scoping process that must be comprehensively evaluated in an EIS: (1) economic impacts to harvesters, processors, and others in the seafood supply chain; and (2) impacts to consumers' perceptions and buying decisions.

First, as we noted in our opening remarks, the Bristol Bay salmon fishery is an economic engine that sustains not only this large region of Alaska, but it has a global reach that supports countless stakeholders through the salmon supply chain. We refer the Corps to the attached 2013 study, "The Economic Importance of the Bristol Bay Salmon Industry,"⁸ which describes a typical year in which \$1.5 billion in U.S. output value was created in harvesting, processing, and retailing Bristol Bay salmon and their multiplier effects. If the Pebble Project proceeds, the EIS must analyze the wide range of losses that could occur when the productivity of the fishery – which now sustainably produces tens of millions of fish annually – is reduced. Losses would be felt in multiple facets of this industry, including (but not limited to) losses to the following industry components in Alaska, Washington, Oregon, California, and other states (numbers apply to 2010 based on the study and illustrate the stakes involved):

- Value in annual direct harvest (ex-vessel value \$165 million)
- Value added in processing (\$225 million)
- Value of Bristol Bay salmon exports (\$250 million)

⁵ <https://www.epa.gov/bristolbay/bristol-bay-assessment-final-report-2014>

⁶ 40 C.F.R. § 1502.16

⁷ 40 C.F.R. § 1508.8

⁸ See http://www.iser.uaa.alaska.edu/Publications/2013_04-TheEconomicImportanceOfTheBristolBaySalmonIndustry.pdf

- Number of fishing and processing jobs in Bristol bay (12,000 jobs)
- Number of jobs in shipping, secondary processing, and retailing (1,000 jobs)
- Multiplier impacts across other industries (6,800 job and \$970 million in output)
- Value of income to U.S. workers (\$500 million)
- Availability of frozen, canned, fresh, and roe product lines to buyers and associated values

While we reference the 2013 study because it analyzes multiple and interrelated facets of the industry in tremendous detail, we note that the economic value of the fishery has increased since then; for example, in 2016, ex-vessel value of Bristol Bay sockeye (the most abundant salmon species in Bristol Bay) was \$193 million and the value added in processing rose to \$245 million.⁹ According to the Alaska Department of Fish and Game, ex-vessel value in 2017 from sockeye alone was \$210 million, and the harvest is projected to be very similar in 2018. Should the Pebble Project proceed, annual and cumulative decreases in each of these metrics must be projected in the EIS and the impacts analyzed for each EIS alternative, to inform the final decision. We also refer the Corps to the September 2017 overview of “The Economic Value of Alaska’s Seafood Industry”¹⁰ and its section devoted to Bristol Bay. Additional economic studies focused on the Bristol Bay fishery are also underway and should be consulted when available. The EIS, including its cumulative effects section, must include an appropriately long time series to analyze both ecological effects on the Bristol Bay watershed and economic effects on those dependent on a healthy fishery.

Second, there is an economic impact that – while related to the above assessment of Bristol Bay salmon value – is separate and distinct enough that it warrants special analysis. This is the impact related to consumer *perception* of Bristol Bay salmon, and how the economic value of the fishery would decrease if that perception is compromised by increases in Pebble Project-related pollution and habitat degradation. While the fishery may remain productive at some level if the Pebble Project proceeds, the demand for that product, and potentially all wild Alaska salmon products by association, would likely be further reduced if consumers no longer view Alaska wild salmon as a sustainable, pristine, and healthy seafood product as a result of pollutants released in perpetuity by the mining activity.

A 2017 survey by Progressive Grocer found that 56% of U.S. grocers predicted an upturn in seafood sales for that year; U.S. wild-caught seafood topped the list of seafood products showing the highest increase in demand, due to consumer perceptions that such seafood is of higher quality.¹¹ Specifically looking at Alaska seafood, in 2017 the Alaska Seafood Marketing Institute (ASMI) partnered with Technomic Research to identify current trends in seafood consumption and how to best position Alaska seafood in a rapidly changing marketplace. The report, “Seafood Consumer of the Future” (to be published in summer 2018), found that consumers are willing to pay a premium of 5 to 10% more for Alaskan seafood that they consider, as one survey respondent noted, to be a “pure source of healthy protein.” The study documents that a large and growing segment of consumers find that salmon meets their expectations for healthy proteins and fatty acids, functional “fuel” foods, and planet-friendly sustainable foods. It also found that restaurants serving Alaska seafood benefit from increased consumer loyalty, with roughly half returning for wild Alaska salmon products and referring friends and family. While this study was not limited to Bristol Bay salmon, it highlights a critical value of Bristol Bay salmon that would be reduced if the

⁹ See p. 30 of

<https://static1.squarespace.com/static/56b0dfb660b5e98b87fc3d52/t/5b281f7c8a922ddb913367fa/1529356167145/2018+Spring+-+BBRSDA+Sockeye+Market+Report+-+Final+Color.pdf>

¹⁰ See <https://www.alaskaseafood.org/wp-content/uploads/2015/10/AK-Seafood-Impacts-Sep2017-Final-Digital-Copy.pdf>

¹¹ See https://www.seafoodsource.com/news/foodservice-retail/retailers-predict-buoyant-seafood-sales-this-year?utm_source=informz&utm_medium=email&utm_campaign=newsletter&utm_content=newsletter

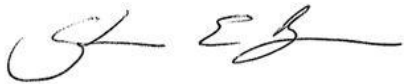
Pebble Project goes forward. PSPA finds that the Corps must analyze the economic value of consumer preferences for wild, sustainable, and pristine Bristol Bay salmon – and how that could be reduced if the Pebble Project proceeds – in the EIS.

Conclusions

Considering the highly controversial process that has surrounded the Pebble Project application submission and the Corps' scoping process to date, combined with the wide-ranging impacts that would result if this project proceeds, PSPA finds that the only responsible action for the Corps at this point is to halt the process, demand a complete application and accountability from PLP, and re-start the scoping process only when full project information and evidence of financing are available. If and when the EIS process proceeds, we urge the Corps to work with effective interdisciplinary teams to fully analyze and document the range of economic impacts we have identified in this letter.

Thank you for considering PSPA's concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'GR' followed by a stylized flourish.

Glenn Reed
President

cc:

Honorable Bill Walker, Governor of Alaska
Honorable Byron Mallott, Lt. Governor of Alaska
Honorable Lisa Murkowski, U.S. Senate
Honorable Dan Sullivan, U.S. Senate
Honorable Don Young, U.S. House of Representatives
Honorable Pete Kelly, Alaska State Senate President
Honorable Bryce Edgmon, Alaska Speaker of the House
Chris Hladick, EPA Region 10 Administrator
Todd T. Semonite, U.S. Army Corps of Engr's, Commanding General & Chief of Engr's Lt.
General Michael Brooks, U.S. Army Corps of Engr's Alaska District Commander Col.
David S. Hobbie, U.S. Army Corps of Engr's Alaska District, Chief of Regulatory Division
Andy Mack, Commissioner, Alaska Department of Natural Resources
Larry Hartig, Commissioner, Alaska Department of Environmental Conservation
Sam Cotten, Commissioner, Alaska Department of Fish & Game

Enc:

June 5, 2018 letter submitted by Bristol Bay Native Corporation, Bristol Bay Economic Development Corporation, United Tribes of Bristol Bay, Bristol Bay Native Association, and Nunamta Aulukest



united
TRIBES OF BRISTOL BAY



BRISTOL BAY NATIVE ASSOCIATION

June 5, 2018

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Re: Project Updates for the Proposed Pebble Mine Project (POA-2017-271)

Dear Mr. McCoy:

As the Bristol Bay region prepares for another incredible fishing season, we write to renew our previous request that the Army Corps of Engineers (“the Corps”) take action to address serious deficiencies in the permitting process surrounding the proposed Pebble Mine. Specifically, we request the Corps: (1) require the Pebble Limited Partnership (“PLP”) submit a new project description and revised permit application with the necessary supporting documentation and data;¹ (2) conduct a new completeness determination;² (3) issue a supplemental, revised, or corrected public notice of the revised permit application;³ and (4) once those three legal requirements have been met, re-start the NEPA scoping process⁴ with a new 90-day public comment period and public hearings. The insufficiency of PLP’s current permit application and PLP’s financial uncertainty underscore the importance of granting our request.

There are several reasons behind this request. First, PLP recently submitted to you what it calls “*Technical Note on Updates*.”⁵ This document *substantially* revises the Pebble project design without much detail, proposes *significant* operational modifications, and includes a 25% increase in the quantity of material to be mined. These changes—five months after PLP’s

¹ 33 C.F.R. § 325.1(d) (“The application must include a complete description of the proposed activity...”).

² *Id.*

³ 33 C.F.R. § 325.2(a)(2) (“The district engineer will issue a supplemental, revised, or corrected public notice if in his view there is a change in the application data that would affect the public’s review of the proposal.”).

⁴ The NEPA scoping process “is the key to preparing a concise EIS and clarifying the significant issues to be analyzed in depth.”). 33 C.F.R. § 230.12. *See also* 40 C.F.R. § 1501.7.

⁵ *See* <https://pebbleprojecteis.com/> (“Monday, May 21, 2018 – Updates to Project Information Available”).

submission of its initial permit application and squarely in the middle of the on-going NEPA scoping process—substantiate the concerns our organizations raised in our March 9, 2018 letter to you. At the time, we opined that PLP’s permit application was missing a substantial amount of pertinent information and asked the Corps not to initiate the NEPA process until PLP provided more information about the project. Additional time has proven these earlier concerns accurate.

The substantive project changes described by PLP include the following:

- Total mined material increases from 1.2 billion tons to 1.5 billion tons (an increase of 25%);
- Tailings tonnages increase. For the pyritic tailings storage cell, the increase is from 135 million tons to 150 million tons. For the bulk tailings storage cell, the increase is from 950 million tons to 1,150 million tons;
- Pit dimensions increase and the pit outline changes in an unspecified manner;
- The location of the open pit water management pond moves to the south;
- The location of the lined pyritic TSF moves from the North Fork Koktuli West site to an unspecified North Fork Koktuli East site location;
- The powerplant capacity increases from 230MW to 270MW;
- Annual concentrate production increases cause a ~10% increase in road and marine traffic; and
- LNG pipeline size increases from 10-inch diameter to 12-inch diameter.

These are significant project changes. That PLP has described them in a sparse 5-page memo, without a single diagram or sketch, without specifications or locations for several of the proposed changes, and without any of the baseline studies and detailed descriptions required by the Corps’ own regulations only exacerbates our concerns. The Corps has already sent to PLP more than 30 “requests for information,” to which PLP, to date, has not fully responded.⁶ Indeed, the responses PLP provided the Corps are themselves incomplete and/or explicitly state that significant additional field-work must be done to comply with the information requests. These responses further underscore the insufficiency of PLP’s permit application and the significance of PLP’s current financial stress. This is not a project that is ready for a NEPA analysis and review.

A second development warranting the demand for a new project description and supporting documentation (and ultimately a new scoping period) is that First Quantum Minerals, Ltd., the company that previously agreed to finance PLP’s permitting effort, exited its agreement with PLP. This means PLP currently only has the financial resources to pay for permitting in the short-term. The Corps and the public have an interest in not commencing a permitting process when a project proponent lacks the resources to see it through to completion. There is no point to moving forward faced with such fundamental financial uncertainty.

In short, the current scoping process is too quickly approaching its conclusion and should be suspended, extended, or restarted. PLP’s current project description includes important components that are not well-defined and are still changing on behalf of a project proponent that may not have the financial resources to make it through permitting—let alone actually construct

⁶ See, <https://pebbleprojecteis.com/documents/library>. The Corps has posted 13 RFIs where PLP has provided responses to the agency. However, PLP’s 13 responses themselves are not complete. For many of the responses, PLP notes that a complete response is months away, pending future field and geotechnical studies. “The applicant will be given a reasonable time, not to exceed 30 days, to respond to requests of the district engineer.” 33 C.F.R. § 325.2(d)(5).

any project that is ultimately approved. There is no way for the Corps or the public to engage in an adequate scoping process under these circumstances. The Corps should demand that PLP produce a new and more complete permit application with an updated project description and demonstrate its financial ability to pay for the permitting process. Following these submissions, the Corps should engage in a new completeness determination, and, if the application is deemed complete, initiate a new scoping comment period and hold additional public scoping meetings. If PLP fails to submit a new or amended permit application and provide missing baseline and technical information to the Corps in a timely manner, the Corps should put the application and NEPA process on hold.

Our organizations have spent significant time and resources analyzing the current permit application and attending public hearings in the region. PLP's project revisions mid-NEPA scoping undermines the public process dictated by NEPA.

Pebble is among the most controversial projects ever proposed in Alaska. It deserves a well-informed and thorough scoping process that allows the public to understand "the significant issues to be analyzed in depth"⁷ and identify "the significant issues related to a proposed action."⁸ This does not exist at this time. It is incumbent on the Corps to make changes in this process so that it exists going forward.


Thank you for your consideration and please provide a prompt response to this request.



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⁷ 33 C.F.R. § 230.12.

⁸ 40 C.F.R. § 1501.7.

Cc:

Honorable Bill Walker, *Governor of Alaska*

Honorable Byron Mallott, *Lt. Governor of Alaska*

Honorable Lisa Murkowski, *U.S. Senate*

Honorable Dan Sullivan, *U.S. Senate*

Honorable Don Young, *U.S. House of Representatives*

Honorable Maria Cantwell, *U.S. Senate*

Honorable Pete Kelly, *Alaska State Senate President*

Honorable Bryce Edgmon, *Alaska Speaker of the House*

Scott Pruitt, *EPA Administrator*

Chris Hladick, *EPA Region 10 Administrator*

Lee Forsgren, *EPA Deputy Assistant Administrator, Office of Water*

Todd T. Semonite, *U.S. Army Corps of Engr's, Commanding General & Chief of Engr's Lt. General*

Michael Brooks, *U.S. Army Corps of Engr's Alaska District Commander Col.*

Andy Mack, *Commissioner, Alaska Department of Natural Resources*

Larry Hartig, *Commissioner, Alaska Department of Environmental Conservation*

Sam Cotten, *Commissioner, Alaska Department of Fish & Game*

Chris Prandoni, *Associate Director for Natural Resources, Council on Environmental Quality*