



February 5, 2019

Via U.S. Mail and Email to:

The Honorable R.D. James
Assistant Secretary of the Army for Civil Works
108 Army Pentagon
Washington, D.C. 20310-0101

Col. Phillip Borders
U.S. Army Corps of Engineers, Alaska District
Regulatory Division P.O. Box 6898
JBER, Alaska 99506-0898
poaspecialprojects@usace.army.mil

Re: Public Input on the Proposed Pebble Mine Project (POA-2017-271)

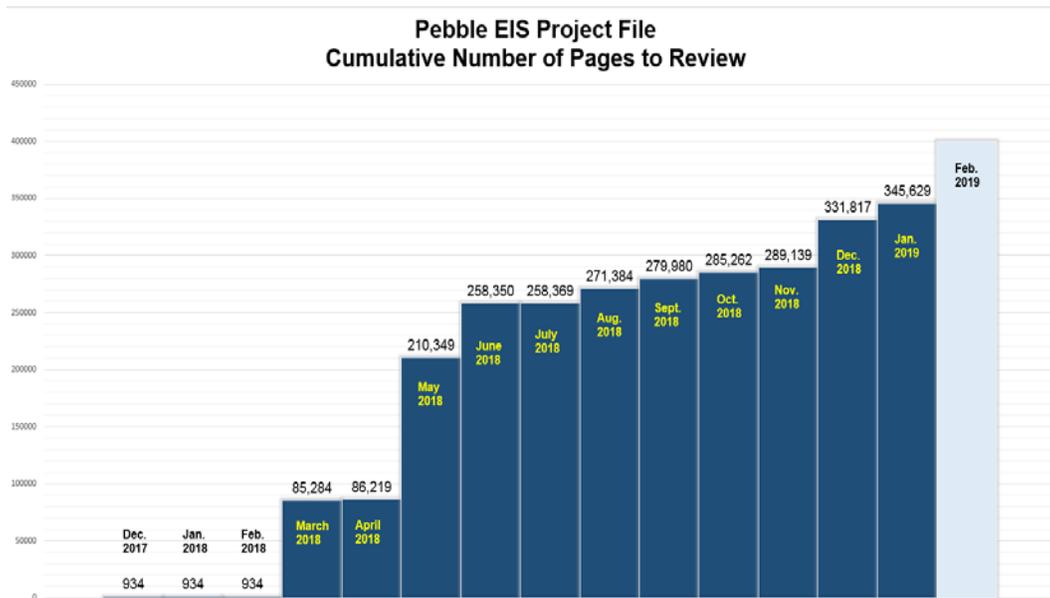
Dear Assistant Secretary James and Colonel Borders,

In order to facilitate the meaningful involvement of the people of Bristol Bay in the U.S. Army Corps of Engineers' permitting process related to the proposed Pebble mine we request a minimum 270-day comment period for the Draft Environmental Impact Statement (Draft EIS). We also request that public hearings be moved to the latter part of the public comment period and that the Corps distribute hard copies of the Draft Environmental Impact Statement throughout Bristol Bay.

There are several reasons why the Corps should agree with our requests. First, as prior formal comment periods related to Pebble demonstrate, the interest within and outside of Bristol Bay on decisions related to the proposed Pebble mine is massive. Indeed, it is without precedent. Pebble-related comment periods undertaken by the U.S. Environmental Protection Agency (EPA) drew input from thousands of Bristol Bay residents, as well as tens of thousands of Alaskans and millions of Americans. The Corps' own Pebble-related scoping comment period drew hundreds of individuals throughout Bristol Bay to attend and provide verbal comments at public meetings and to submit written comments. This intense interest stems from the substantial and severe risks posed by the proposed Pebble mine to Bristol Bay's wild salmon fishery, which in turn are founded on the massive size of the low-grade Pebble ore deposit, its location at the headwaters of Bristol Bay's world-renowned wild salmon fisheries, and its potentially-acid-generating nature, among other concerns.

Understanding how these unique issues interplay with the existing cultures, natural values and uses of Bristol Bay is a demanding and technically complex task. The Corps' own Project

File related to its permit process well-illustrates this point, as it currently contains approximately 350,000 pages of documents.



Relatedly, Pebble has substantially revised its proposal since the scoping period, including a 25% increase in the quantity of material to be mined and two new transportation alternatives. Unlike in other permit processes where the Corps has kept the public updated of project changes, the Corps has done little outreach on Pebble.

In order to protect our interests and to meet our obligations to the acutely-interested people we represent, Bristol Bay Native Corporation, Bristol Bay Native Association and Bristol Bay Economic Development Corporation must devote significant attention and resources to evaluating the Draft EIS, Pebble Limited Partnership's (PLP's) permit application, and related technical documents and communications. The technical issues raised by PLP's proposal involve many scientific disciplines, including fishery, aquatic, marine and wetlands ecology, geochemistry, geophysics, hydrology, geohazards, wildlife biology, maritime and freshwater shipping, Geographic Information Systems (GIS) and survey data, and more. Examples of complex aspects of the proposal and its potential impacts requiring expert review include, but are not limited to, water treatment plans, seismic hazards, tailings storage and storage dams, and surface and groundwater impacts. To make matters more challenging, some of the aspects of PLP's proposal appear to us to be unprecedented in the world of hard rock mining.

Adding to the challenge we face is the fact that the Corps is proceeding even though PLP has not applied for State of Alaska and other federal permits without which the mine cannot be developed. A coordinated process allows both federal and state executive branch decision-makers to be informed by a consideration of the facts presented and issues raised in all of the primary permitting fields, including PLP's plan of operations, water and waste management plan, reclamation plan and more.

As one example of a problem area, AECOM, which PLP hired to facilitate the Corps' EIS process, has noted the absence of a State-required reclamation plan for the project and stated

that it “is potentially essential to a reasoned choice among the alternatives.” The choice among alternatives is critical to the integrity of the Clean Water Act and NEPA processes. As another example, PLP appears not to have provided sufficient information concerning bridge crossings over anadromous waters to support a Coast Guard permit application, and PLP itself admits that its conceptual design concepts to support that permit “differ from those presented in” PLP’s Clean Water Act permit application.

The benefits of concurrent permitting are formally recognized by the State of Alaska, which specifically put in place a “process to coordinate all State agency permitting for [large mine] projects [] which [] integrates with federal and local government permitting.” As Alaska’s Department of Natural Resources notes, this process “has significantly improved mine permitting for the benefit of both the industry and the public.” Notably, the Pogo mine involved concurrent consideration and decisions on federal and state permits. Further, the Corps suspended its Chitna mine permit process to await state permit applications from the project developer.

While, as noted above, Alaska encourages the concurrent consideration of federal and state permits, and recognizes the substantial benefits to the public and industry in doing so, it cannot force a potential developer to apply for state permits. Because the Corps does have the ability to align its process with that of the State of Alaska, BBNC discussed this issue with the Corps’ Principal Deputy Assistant Secretary at the Pentagon. At our meeting this past September we were glad to hear from top Corps’ staff that the Pebble 404 permit would be the last significant Pebble-related permit on which a decision would be made, thus ensuring the Corps’ is informed by other permit processes before making a final decision.

Unfortunately, months later when PLP still had not applied for other permits and the Corps’ permitting process did not slow down, the Principal Deputy wrote back to BBNC that the law does not require the Corps to align its process with that of the State, or, presumably, other federal agencies. This point is not, however, responsive to the issue at hand. The fact that the Corps believes that the law does not require process alignment does not mean that the Corps cannot do so, as indeed it has elsewhere. Nevertheless, the message from the Corps was clear; it is not inclined to align permit review processes in order to achieve a more effective and efficient review process for the public, agencies and the applicant. The Corps’ current path puts a higher burden on us to fill in the blanks of essential missing information and assess what that means for the Corps’ impacts analysis and presentation of alternatives, and this takes time.

Furthermore, our task is not simply to work internally and with experts to digest this information, identify gaps, and prepare technical comments. We also have an obligation to consult with the people of Bristol Bay whose interests we are charged with protecting and representing. In late spring and summer, Bristol Bay bustles with people traveling for subsistence, or to prepare for and conduct their commercial fishing operations, or as part of their jobs in the sports fishing or other economies. As they travel and undertake their activities, the people of the region will have the opportunity to share insights and opinions on Pebble and the Draft EIS, which they will do on the rivers and trails, in villages, on the docks, and over the radio. These informal interactions are the most effective means for the people of Bristol Bay to share information about all things important to the region.

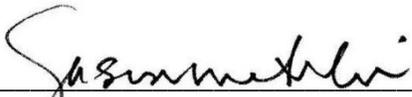
This dynamic explains why the Corps should hold public hearings at the latter part of a

minimum 270-day comment period, which would align with the fall in Bristol Bay. While we presume that the Corps is already planning on distributing hard copies of the Draft EIS, the low connectivity and rudimentary internet download rates and opportunities in many parts of Bristol Bay, coupled with the reality of life in Bristol Bay's summer season counsels that the Corps take extra care in ensuring that such hard copies are available in the villages, on the boats, at the docks and at other gathering points of Bristol Bay.

Numerous public statements made by Alaska and federal leaders reinforce the importance of the Corps engaging in an especially rigorous, open and community-sensitive permitting process for the proposed Pebble mine. For example, Senator Murkowski has stated “[w]e must ensure that all relevant stakeholders are given ample opportunity to consider the information provided, as well as sufficient opportunity and forum to provide comment on it.” Others speaking up on this issue include former EPA Administrator Scott Pruitt (the Pebble “permit application must clear a high bar”); Governor Dunleavy (“...science is essential to guide us. ... Alaskans should ... insist that our permitting process not be short-circuited”) and Bryce Edgmon, Bristol Bay resident, former Speaker of the Alaska State House, and current Alaska State Representative (the Corps’ “review of the proposed project [should be] suitable careful, transparent, thorough, and comprehensive”).

In terms of its potential impact to Bristol Bay, no activity has a higher potential to change the fabric of life in Bristol Bay than the proposed Pebble mine. Based on your targeted Draft EIS release date of March 1, 2019 and our collective experience with Bristol Bay, a minimum of 270 days is necessary to ensure that our organizations and the people of the region have the opportunity to meaningfully participate in your critical Clean Water Act and NEPA decision-making.

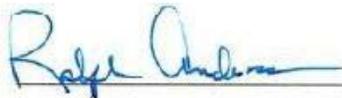
Sincerely,



Jason Metrokin
President/CEO, Bristol Bay Native Corporation
111 West 16th Avenue, Suite 400
Anchorage, AK 99501
Phone: (907) 278-3602



Norm Van Vactor
President/CEO, Bristol Bay Economic Dev't Corp.
PO Box 1464
Dillingham, Alaska 99576
Phone: (907) 842-4370



Ralph Andersen
President & CEO, Bristol Bay Native Association
P.O. Box 310
Dillingham, Alaska 99576
Phone: (907) 842-5257