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June 19, 2019

Shane McCoy
U.S. Army Corps of Engineers, Alaska District
Program Manager, Regulatory Division
P.O. Box 6898
Joint Base Elmendorf-Richardson, Alaska 99506-0898

Re: The Proposed Pebble Mine Project

Mr. McCoy:

Bristol Bay Native Corporation (BBNC) submits this letter as a comment on the Public Notice on the Clean Water Act 404 Permit Application for the proposed Pebble Mine Project and the corresponding Draft Environmental Impact Statement (Draft EIS). BBNC urges the U.S. Army Corps of Engineers (the Corps) to deny the Clean Water Act 404 Permit. The size, type, and location of the proposed Pebble Mine Project entail unprecedented and unacceptable risks to Bristol Bay salmon fisheries and the remarkable economic and subsistence benefits those fisheries provide. These impacts cannot be avoided, or compensated for, in any meaningful way and as such the project cannot be permitted under the law.

The impacts of the proposed Pebble Mine Project include the *direct and permanent loss* of 3,560 acres of wetlands and 81.1 miles of streams, including 8.87 linear miles of designated salmon streams. These impacts are unprecedented in the history of the Clean Water Act 404 permit program in Alaska and far exceed impacts of any other hardrock mine in Alaska. The loss of essential salmonid spawning and rearing habitat could – as already concluded by the EPA – result in unacceptable adverse effects on the Bristol Bay fishery. Moreover, Pebble Limited Partnership (PLP) has offered no specific mitigation plan, much less one sufficient to offset such massive losses as required under the Clean Water Act – likely because it knows that such mitigation is impossible in a place as perfect for salmon as Bristol Bay. As such, this project cannot be permitted under the 404 program and the Corps must deny PLP's Clean Water Act 404 permit application. Furthermore, for these reasons and others, the proposed Pebble Mine Project fails the critical 404 public interest review, which is an independent legal reason why the Corps must deny the permit application.

The Corps' permitting work, including the Draft EIS, is also faulty for assumptions the Corps makes about PLP's ability to access private property in Bristol Bay. BBNC is the

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subsurface and surface owner of lands located along all three transportation corridor alternatives assessed in the Draft EIS. BBNC has previously informed the Corps, and reiterates here, that PLP does not have BBNC's permission to trespass our subsurface or surface lands or to utilize any of our subsurface resources. The Corps should not, therefore, have released a Draft EIS that includes alternatives that implicate our lands, and to do so violates the law.

Further, the Corps' process lacks integrity from a procedural perspective. The Corps' fast-track schedule for the most complex, controversial, and potentially damaging proposal ever put forth in Bristol Bay does not allow for truly meaningful input from the people of Bristol Bay. This approach, coupled with the Corps' refusal to provide any logical reason to stand by its schedule in these extreme circumstances, threatens the broader government's reputation as fair and impartial regulators. It also raises serious equitable and legal issues. Notably, we are not alone in this opinion; in seeking to redirect the Corps onto a better path, every other regional leader in Bristol Bay agrees with us and has clearly communicated their views to the Corps.

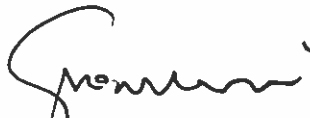
The Corps' errors are compounded by the fact that PLP was not, and still is not, prepared to provide the necessary data to inform the Corps' permitting decision. From the outset PLP submitted a permit application lacking key project specifications and advanced engineering, baseline data, and other information necessary for a proper analysis of the project under the Clean Water Act and NEPA. The Corps and expert consulting agencies have tried to get this information from PLP, which for a variety of reasons that appear to be related to cost and time, has not provided the data. Rather than stand firm in seeking this key data, the Corps continues apace with its extreme plan to quickly finalize the EIS despite the critical gaps in data. Any final permit decision that grants PLP a permit based on this administrative record will violate both the Clean Water Act and NEPA.

It is not too late, however, for the Corps to get on the right track. To do so, the Corps must require PLP to provide the necessary information and, if and when PLP does so, revise the public notice on the 404 permit application and the Draft EIS to take into account that information. The Corps must then provide a new public review comment period on a revised Draft EIS and 404 permit application, for that step is key to informing the Corps' decision with input from the public, including the people of Bristol Bay who know their home the best. Failure to do so and involve the public violates the law.

Finally, even the short-circuited record before the Corps is enough to demonstrate that the proposed Pebble Mine Project poses unacceptable risks to Bristol Bay's salmon fisheries and the economic and subsistence benefits those fisheries provide. If the Corps does not get on a track that will allow full consideration of these risks and impacts, then it must deny outright any Clean Water Act permit for the proposed Pebble Mine Project.

We will provide detailed grounds for our view on the above issues in technical comments that we will soon submit.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Metrokin". The signature is fluid and cursive, with a large initial "J" and a distinct "M".

Jason Metrokin
President and CEO