



By FOIA Online and Certified Mail, Return Receipt Requested

June 26, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667
<https://foiaonline.regulations.gov/foia/action/public/home>

By Electronic Mail and Certified Mail, Return Receipt Requested

June 26, 2017

EPA, Region X
Freedom of Information Officer
1200 Sixth Avenue
Seattle, WA 98101
206-553-8665
E-mail: r10foia@epa.gov

Re: Updated Freedom of Information Act Request Concerning Settling, Rescinding, or Withdrawing the “Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act for the Pebble Deposit Area in Southwest Alaska” and/or the “Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska” (Updating FOIA request, EPA-R10-2017-004880)

Dear FOIA Officer:

On behalf of the Natural Resources Defense Council (“NRDC”), I write to request the disclosure of records pursuant to the Freedom of Information Act 5 U.S.C. § 522 (“FOIA”) and the pertinent U.S. Environmental Protection Agency (“EPA”) regulations 40 C.F.R. § 2.100 *et seq.* I also request that your agency waive all applicable FOIA fees and/or costs involved in fulfilling this request, as discussed below.

This request mirrors the scope and content of my existing FOIA request—EPA-R10-2017-004880—but extends the dates sought from March 27—where the original request ended—to the present date.

NATURAL RESOURCES DEFENSE COUNCIL

AMERICAN
OVERSIGHT

1314 2ND STREET | SANTA MONICA, CA | 90401 | T 310.434.2300 | F 310.434.2399 | NRDC.ORG

EPA-19-1101-A-000001

I. Description of Records Sought

NRDC requests all records related to settling, rescinding, and/or withdrawing the Proposed Determination to restrict the Pebble Deposit Area in Southwest Alaska (“Proposed Determination”) issued by EPA Region 10 in July 2014 pursuant to Section 404(c) of the Clean Water Act (33 U.S.C. § 1344(c)). *See* EPA, Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act for the Pebble Deposit Area in Southwest Alaska (2014), *available at* <https://www.epa.gov/bristolbay/proposed-determination-pursuant-section-404c-clean-water-act-pebble-deposit-area>; *see also* 79 Fed. Reg. 42314 (July 21, 2014) (restricting the use of certain waters in the South Fork Kaktuli River, North Fork Kaktuli River, and Upper Talarik Creek watersheds in southwest Alaska as disposal sites for dredged or fill material associated with mining the Pebble deposit, a copper-, gold-, and molybdenum-bearing ore body).

NRDC further requests all records of any communication with the Pebble Limited Partnership, Northern Dynasty Minerals, or any of those companies’ officers, directors, shareholders or representatives.

Given the clarifications agreed upon between NRDC and EPA regarding FOIA request EPA-R10-2017-004880 (see Confirmation of Clarification and Next Steps letter from EPA dated March 31, 2017), this FOIA request adopts the same subject matter, search terms, and custodians. This FOIA merely seeks to update the date range of the records searched pursuant to FOIA request EPA-R10-2017-004880 to include all records dated on or after March 27, 2017.

Date Range:

March 27, 2017—present

Subject Matter:

NRDC specifically requests the production of the following types of records in EPA’s possession, custody or control, per the agreement reached regarding FOIA request EPA-R10-2017-004880:

1. All internal records, documentation, phone logs, schedules, and/or meetings involving the post-inauguration Trump beachhead team and Administrator Scott Pruitt’s office about (1) withdrawal or rescission of the 2014 Proposed Determination regarding the Pebble deposit; (2) EPA’s use of Section 404(c) with regard to the Pebble deposit; (3) EPA’s use of Section 404(c) generally; and (4) settlement with Northern Dynasty Minerals and/or the Pebble Limited Partnership.

2. All external communications from the post-inauguration Trump beachhead team and Administrator Pruitt's office to the non-EPA parties listed below about (1) withdrawal or rescission of the 2014 Proposed Determination regarding the Pebble deposit; (2) EPA's use of Section 404(c) with regard to the Pebble deposit; (3) EPA's use of Section 404(c) generally; and (4) settlement with Northern Dynasty Minerals and/or the Pebble Limited Partnership.

External parties:

- Members of Congress, including any representatives or staff
- Pebble Limited Partnership, Northern Dynasty Minerals, and/or its officers, directors, shareholders, or representatives
- U.S. Department of Justice
- U.S. Army Corps of Engineers

Key Words:

Per the agreement reached in FOIA request EPA-R10-2017-004880, NRDC agrees to limit the search terms to the following: "404c" or "404(c)" or "Pebble Mine" or "Bristol Bay" or "Watershed Assessment" or "Proposed Determination" or "Pebble Deposit"

Custodians:

Per the agreement reached in FOIA request EPA-R10-2017-004880, NRDC agrees to limit the custodians subject to this FOIA request to two groups of EPA staff.

Group A: Members of the Post-Inauguration Beachhead Team (to the extent still applicable) and Administrator Office Staff, including:

- Administrator Scott Pruitt
- Ryan Jackson
- Layne Bangerter
- Don Benton
- Byron Brown
- Samantha Dravis
- Doug Ericksen
- Holly Greaves
- Sarah Greenwalt
- John Konkus
- David Kreutzer
- Charles Munoz
- Justin Schwab
- George Sugiyama
- Patrick Davis
- David Schnare

Group B: Career Senior Leadership that may have communicated with the Post-Inauguration Beachhead Team and Administrator Office Staff, including:

- Kevin Minoli
- Michelle Pirzadeh
- Mike Shapiro

II. Request for a Fee Waiver

On March 23, 2017, EPA's National Freedom of Information Office granted the fee waiver request that accompanied FOIA request EPA-R10-2017-004880. NRDC requests that EPA once again waive the fee that it would otherwise charge for completion of this updated FOIA request. Disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government" and is "not primarily in the commercial interest of the requestor," pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 40 C.F.R. § 2.107(l).

A. NRDC Satisfies the First Fee Waiver Requirement

The disclosure requested here would be "likely to contribute significantly to public understanding of the operations or activities of the government." 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1). Each of the four factors used by EPA to evaluate the first fee waiver requirement indicates that a fee waiver is appropriate for this request. *See* 40 C.F.R. § 2.107(l)(2).

First, the records requested here relate to the EPA's Proposed Determination and Watershed Assessment. This request seeks information about EPA's potential rescission or withdrawal of that Proposed Determination and/or Watershed Assessment, including the agency's future use of its authority under Section 404(c) of the Clean Water Act. The requested records thus the subject of the requested records "concerns 'the operations or activities of the government.'" 40 C.F.R. § 2.107(l)(2)(i).

Second, the disclosure is "'likely to contribute' to an understanding of government activities and operations," because it directly concerns EPA's decision to move forward or withdraw its Proposed Determination, as well as the agency's Watershed Assessment, and will provide information that is not already in the public domain, such as instructions regarding the future use of Section 404(c). 40 C.F.R. § 2.107(l)(2)(ii). *See also Judicial Watch, Inc. v. Dep't of Justice*, 365 F.3d 1108 (2004) (organization's entitlement to a waiver of fees depends upon whether requested materials were publicly available).

The public does not currently possess any information regarding whether EPA will move forward or withdraw its Proposed Determination, including communications with outside parties about that determination. There is more than a reasonable likelihood that these records have informative value to the public, *see Citizens for Responsibility & Ethics in Washington v. U.S. Dep't of Health & Human Servs.*, 481 F. Supp. 2d 99, 109 (D.D.C. 2006). EPA itself believes that the Proposed Determination and Watershed Assessment

has informative value, having posted it on the agency's website and in the Federal Register, as well as hosting numerous public hearings regarding both documents.

Third, NRDC's extensive communications capabilities, and proven history of dissemination of information of public interest—including information obtained from FOIA records requests—indicate that NRDC has the ability and will to use disclosed records to reach a broad audience of interested persons with any relevant and newsworthy information the records reveal. There is a strong likelihood that disclosure of the requested records will increase public understanding of the subject matter. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003) (finding that a requester that specified multiple channels of dissemination and estimated viewership numbers demonstrated a likelihood of contributing to public understanding of government operations and activities).

NRDC intends to disseminate any newsworthy information in the released records and its analysis of such records to its member base and to the broader public, through one or more of the many communications channels referenced below. NRDC has frequently disseminated newsworthy information to the public for free, and does not intend to resell the information requested here. NRDC's more than one million members and online activists are "a broad audience of persons interested in the subject" of EPA's Proposed Determination, Watershed Assessment, and regulatory authority under Section 404(c) of the Clean Water Act. 40 C.F.R. § 2.107(l)(2)(iii). When combined with NRDC's communications to the public at large, the likely audience of interested persons to be reached is certainly "reasonably broad." 40 C.F.R. § 2.107(l)(2)(iii). As NRDC's long history of incorporating information obtained through FOIA into reports, articles, and other communications illustrates, NRDC is well prepared to convey to the public any relevant information it obtains through this records request.

NRDC has the ability to disseminate information collected from this FOIA request through many channels, including but not limited to:

- 1) NRDC's website, available at <http://www.nrdc.org>, is updated daily and draws approximately 1.3 million page views and 510,000 unique visitors per month. The new NRDC.org launched in late March 2016 and features NRDC staff blogs, original reporting of environmental news stories, and more.
- 2) NRDC's Activist email list includes more than 2.1 million members and online activists who receive regular communications on urgent environmental issues. This information is also made available through NRDC's online Action Center at <https://www.nrdc.org/actions>.
- 3) NRDC This Week is a weekly electronic environmental newsletter distributed by email to more than 86,700 subscribers, at <http://www.nrdc.org/newsletter>.
- 4) NRDC updates and maintains several social media accounts: Facebook (565,530 followers), Twitter (195,426 followers), Instagram (37,868 followers), YouTube (19,518 subscribers), and LinkedIn (9,108 followers). We also use Medium as another distribution channel for our content (1,478 followers).

NRDC also issues press releases, issue papers, and reports; directs and produces movies, such as *Sonic Sea*, *Stories from the Gulf*, and *Acid Test*, narrated by Rachel McAdams, Robert Redford, and Sigourney Weaver, respectively; participates in press conferences and interviews with reporters and editorial writers; distributes content on Huffington Post; and has more than fifty staff members dedicated to communications work. NRDC employees provide Congressional testimony; appear on television, radio, and web broadcasts and at conferences; and contribute to numerous national newspapers, magazines, academic journals, other periodicals, and books. In addition, NRDC routinely uses FOIA to obtain information from federal agencies that NRDC legal and scientific experts analyze in order to inform the public about a variety of issues, including the proposed Pebble Mine.

As these examples demonstrate, NRDC has a proven ability to digest, synthesize, and quickly disseminate information gleaned from FOIA requests to a broad audience of interested persons. Therefore, the requested records disclosure is likely to contribute to the public's understanding of the subject.

Finally, the disclosure is likely to contribute “significantly” to public understanding, as NRDC may analyze and disseminate information from the released records in a communication made to or available to the public. 40 C.F.R. § 2.107(l)(2)(iv). *See also Carney v. Department of Justice*, 19 F.3d 807 (2d Cir. 1994) (requestor's right to fee waiver turns on subject matter of requests and ability of requestor to disseminate information).

The records requested shed light on matters of considerable public interest and concern: EPA's engagement in the future of Bristol Bay. Disclosure would also help the public understand the nature and extent of communications with outside parties about the Proposed Determination and Watershed Assessment.

Public understanding of these topics would be significantly enhanced by disclosure of the requested records.

B. NRDC Satisfies the Second Fee Waiver Requirement

Disclosure in this case would also satisfy the second prerequisite of a fee waiver request because NRDC does not have any commercial interest that would be furthered by the requested disclosure. 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1), (3). NRDC is a not-for-profit organization and does not act as a middleman to resell information obtained under FOIA. “Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’” *Rossotti*, 326 F.3d at 1312 (internal citation omitted); *see Natural Res. Def. Council v. United States Env'tl. Prot. Agency*, 581 F. Supp. 2d 491, 498 (S.D.N.Y. 2008). NRDC wishes to serve the public by reviewing, analyzing, and disclosing newsworthy and presently non-public information about the subject of this request. As noted above, work done by EPA on this topic relates to a matter of considerable public interest and concern. Disclosure of the requested records will contribute significantly to public understanding of the underlying subject matter.

C. NRDC is a Media Requestor

If EPA finds that NRDC does not meet the first and second requirement above, NRDC is still “a representative of the news media” and therefore entitled to limited fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II), as defined in 40 C.F.R. § 2.107(c)(1)(iii), 40 C.F.R. § 2.107(c)(2)(i)(A), and 40 C.F.R. § 2.107(d)(1). NRDC publishes books and newsletters on issues of current interest to the public through its quarterly magazine, *OnEarth*; publishes newsletters, alerts, and bulletins for its members; issues public reports and analyses; and maintains a website and free online library of reports and analyses. NRDC is therefore a representative of the news media. *See generally Electronic Privacy Info. Ctr. v. United States Department of Defense*, 241 F. Supp. 2d 5, 11-14 (D.D.C. 2003) (a “non-profit public interest organization” qualifies as a representative of the news media under the FOIA where it publishes books and newsletters on issues of current interest to the public).

III. Willingness to Pay Fees Under Protest

Please provide the records requested above regardless of your fee waiver decision. In order to expedite a response, NRDC will, if necessary and under protest, pay fees in accordance with EPA’s FOIA regulations at 40 C.F.R. § 2.107(c)(1)(iv) for all or a portion of the requested records. See 40 C.F.R. § 2.107(l)(4). Please contact me before doing anything that would cause the fee to exceed \$250. NRDC reserves its rights to seek administrative or judicial review of any fee waiver denial.

IV. Conclusion

Please produce the records requested above, preferably by sending them to Taryn Kiekow Heimer via email at tkiekowheimer@nrdc.org. If it is not possible to email, please mail the records requested above to:

Taryn Kiekow Heimer
NRDC
1314 2nd Street
Santa Monica, CA 90401

Please produce these records on a rolling basis. EPA’s search for—or deliberations concerning—certain records should not delay the production of others that EPA’s has already retrieved and elected to produce. *See generally* 40 C.F.R. § 2.104 (describing response deadlines). If EPA concludes that any of the records requested here are publicly available, please let me know. Please do not hesitate to email or call with any questions or to request clarifications.

Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "Taryn Kiekow Heimer". The signature is fluid and cursive, with the first name "Taryn" being the most prominent.

Taryn Kiekow Heimer
Senior Policy Analyst
Natural Resources Defense Council
1314 Second St.
Santa Monica, CA 90401
(310) 434-2300

From: [Bronstein, Scott](#)
To: [Threet, Derek](#)
Cc: [Palomaki, Ashley](#)
Subject: Re: CNN FOIA EPA-R10-2017-009698
Date: Tuesday, August 15, 2017 1:36:08 PM
Attachments: [image001.png](#)

hi Derek,
yes this is fine, we understand your position and that makes sense.
We look forward to receiving our FOIA materials soon as possible.
thank you,
scott

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Scott Bronstein
Senior Producer / Writer
CNN Investigates
820 First Street NE
Washington, DC 20002-4243
202-898-7972



From: "Threet, Derek" <Threet.Derek@epa.gov>
Date: Tuesday, August 15, 2017 at 4:24 PM
To: Scott Bronstein <Scott.Bronstein@turner.com>
Cc: "Palomaki, Ashley" <Palomaki.Ashley@epa.gov>
Subject: CNN FOIA EPA-R10-2017-009698

Hi Scott –

Thank you for talking to Ashley Palomaki and I yesterday. This email concerns Freedom of Information Act (FOIA) request number EPA-R10-2017-009698, dated July 21, 2017, in which Cable News Network, Inc. requested:

“Cable News Network, Inc. ("CNN") requests access to and copies of (in pdf form, where possible) all communications, documents and records held by the Environmental Protection Agency related to EPA communications and the proposed Pebble mine in Alaska and the Pebble Partnership, during the precise dates as detailed below.

The precise dates are from November 8, 2016 until the present, or as close as possible to present

date.

To clarify, 'all communications, documents and records' should include all internal or external correspondence between EPA officials and staff, all communication between EPA officials and staff and others outside EPA including any officials from Pebble Partnership, the Department of Justice, the White House, and include all phone logs, facsimiles, reports, communication, letters, office emails, private emails, power-point presentations, minutes of meetings, schedules, lists, slides, written notes, and/or other forms of information in which the topics outlined below are referenced.

The topics are: the proposed Pebble mine, any or all ties or consideration of the mine proposal and the EPA's proposed determination on Section 404 (c) of the Clean Water Act, the Pebble Partnership (Ltd), withdrawal or changing the EPA proposed determination on the proposed mine and Bristol Bay and its watershed.

We specifically request any communication of any kind on these topics between: EPA Administrator Scott Pruitt, David Schnare, Peter Robertson (Pebble Partners), Ryan Jackson, Bryon Brown, Justin Schwab, Alex Hass."

During the call today, EPA clarified that Alex Hass is a U.S. Department of Justice employee and that EPA is currently processing a FOIA from NRDC, EPA-R10-2017-004880, which has substantial if not complete overlap with your FOIA request.

During the call today, you agreed on behalf of CNN to the following:

- 1) For the date range of November 8, 2016 to June 26, 2017, EPA will produce to CNN the documents that are responsive to the NRDC FOIA request, EPA-R10-2017-004880, as clarified on March 31, 2017 and extended on June 26, 2017. For documents that EPA has already produced to NRDC, EPA will reprocess the documents with bates stamps unique to the above-mentioned CNN FOIA, upload them to FOIAonline in response to the CNN FOIA, and mail CNN a disc containing the documents. EPA's response to EPA-R10-2017-004880 is ongoing and documents are produced on a monthly basis, with the next production due on August 25, 2017. Going forward, EPA will consider any document responsive to EPA-R10-2017-004880 as responsive to your FOIA request and produce documents to you on the same day that EPA produces documents to NRDC. EPA will also send you a CD of these productions.
- 2) For dates between June 26, 2017 and July 21, 2017, EPA will conduct an additional search for documents and produce documents to CNN on a monthly rolling basis with bates stamps unique to the above-mentioned CNN FOIA, upload them to FOIAonline in response to the CNN FOIA, and mail CNN a disc containing the documents.

The subject matter is:

- a. All internal records, documentation, phone logs, schedules, and/or meetings about (1) withdrawal or rescission of the 2014 Proposed Determination regarding the

Pebble deposit; (2) EPA's use of Section 404(c) with regard to the Pebble deposit; (3) EPA's use of Section 404(c) generally; and (4) settlement with Northern Dynasty Minerals and/or the Pebble Limited Partnership.

- b. All external communications between Administrator Pruitt, Ryan Jackson, Byron Brown, and Justin Schwab and the non-EPA parties listed below about (1) withdrawal or rescission of the 2014 Proposed Determination regarding the Pebble deposit; (2) EPA's use of Section 404(c) with regard to the Pebble deposit; (3) EPA's use of Section 404(c) generally; and (4) settlement with Northern Dynasty Minerals and/or the Pebble Limited Partnership.

External parties:

- Members of Congress, including any representatives or staff
- Pebble Limited Partnership, Northern Dynasty Minerals, and/or its officers, directors, shareholders, or representatives
- U.S. Department of Justice
- U.S. Army Corps of Engineers
- The White House

The custodians are: Administrator Pruitt, David Schnare, Ryan Jackson, Byron Brown, and Justin Schwab.

The key words are "404c" or "404(c)" or "Pebble Mine" or "Watershed Assessment" or "Proposed Determination" or "Pebble Mine" or "PLP".

Please confirm that this email accurately captures your request. Once I receive your response, EPA will proceed to process your request as described above and will provide you with interim estimates of the rolling production dates for this FOIA request.

Thank you for your time.

Derek

Derek Threet

U.S. Environmental Protection Agency | Region 10
Office of Environmental Review and Assessment
Aquatic Resources Unit
Phone: 206-553-6266



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

Taryn Kiekow Heimer
Senior Policy Analyst
Natural Resources Defense Council
1314 Second St.
Santa Monica, CA

3/31/2017

Re: EPA-R10-2017-004880 Confirmation of Clarification and Next Steps

Dear Ms. Heimer:

This letter is in response to your FOIA request, EPA-R10-2017-004880. Your original request sought the following:

- 1) Any and all records, documentation, internal and external communications, phone logs, schedules and/or meetings between EPA and Members of Congress, including any representatives or staff, concerning or informing the potential rescission or withdrawal of the Proposed Determination and/or Watershed Assessment made on or after November 8, 2016.
- 2) Any and all records, documentation, internal and external communications, phone logs, schedules and/or meetings between EPA and the Pebble Limited Partnership, Northern Dynasty Minerals, and/or its officers and directors concerning or informing the potential rescission or withdrawal of the Proposed Determination and/or Watershed Assessment made on or after November 8, 2016.
- 3) Any and all records, documentation, internal and external communications, phone logs, schedules and/or meetings between EPA and the U.S. Department of Justice concerning or informing the potential rescission or withdrawal of the Proposed Determination and/or Watershed Assessment made on or after November 8, 2016.
- 4) Any and all records or communications from the Trump Administration, the Trump transition team, and/or "beachhead" units concerning or informing the potential rescission or withdrawal of the Proposed Determination and/or Watershed Assessment.
- 5) Any and all records or communications from the Trump Administration, the Trump transition team, and/or "beachhead" units concerning or informing EPA use of Section 404(c) of the Clean Water Act and/or the permitting process for the proposed Pebble Mine.

6) Any and all records, documentation, internal and external communications, phone logs, schedules and/or meetings between EPA and the U.S. Army Corps of Engineers regarding the proposed Pebble Mine, Bristol Bay, Alaska, and/or EPA's use of 404(c) with regard to disposals at the Pebble Deposit Area made on or after November 8, 2016.

7) Any and all records, documentation, internal and external communications, phone logs, schedules and/or meetings regarding the Proposed Determination, Watershed Assessment, agency use of Section 404(c), and/or the proposed Pebble Mine, including but not limited to, records and communications from the following individuals and entities:

- a. Administrator Scott Pruitt
- b. David Schnare
- c. Justin Schwab
- d. Ryan Jackson
- e. Samantha Dravis
- f. Bryon Brown
- g. Alex Hass

Clarification

On March 27, 2017 you spoke to Ashley Palomaki and I regarding the scope of your request. On March 29, 2017 I contacted you about specific follow-up items. During these conversations you clarified your request as discussed below.

Date Range:

November 8, 2016 – March 27, 2017

Subject Matter:

During the March 27, 2017 call, you clarified the scope of your request. You indicated that you are interested in:

1. All internal records, documentation, phone logs, schedules, and/or meetings involving the pre-inauguration Trump Transition team, the post-inauguration Trump beachhead team, and Administrator Pruitt's office about (1) withdrawal or rescission of the Bristol Bay Watershed Assessment; (2) withdrawal or rescission of the 2014 Proposed Determination regarding the Pebble deposit; (3) EPA's use of Section 404(c) with regard to the Pebble deposit; and (4) EPA's use of Section 404(c) generally.

2. All external communications from the post-inauguration Trump beachhead team and Administrator Pruitt's office to the non-EPA parties listed below about (1) withdrawal or rescission of the Bristol Bay Watershed Assessment; (2) withdrawal or rescission of the 2014 Proposed Determination regarding the Pebble deposit; (3) EPA's use of Section 404(c) with regard to the Pebble deposit; and (4) EPA's use of Section 404(c) generally.

External parties:

- o Members of Congress, including any representatives or staff
- o Pebble Limited Partnership, Northern Dynasty Minerals, and/or its officers and

- directors
- o U.S. Department of Justice
- o U.S. Army Corps of Engineers

Key Words:

“404c” or “404(c)” or “Pebble Mine” or “Bristol Bay” or “Watershed Assessment” or “Proposed Determination” or “Pebble Deposit”

Custodians:

There are three groups of EPA staff relevant to the request:

Group A: Members of the Post-Inauguration Beachhead Team and Administrator Office Staff

- Administrator Pruitt*
- Ryan Jackson *
- Layne Bangerter
- Don Benton
- Byron Brown *
- Samantha Dravis *
- Doug Ericksen
- Holly Greaves
- Sarah Greenwalt*
- John Konkus
- David Kreutzer
- Charles Munoz
- Justin Schwab
- George Sugiyama
- Patrick Davis
- David Schnare

*Not part of the “Beachhead Team”

Group B: Career Senior Leadership that may have communicated with the Post-Inauguration Beachhead Team and Administrator Office Staff

During the March 29, 2017 follow-up call, you expressed concern that there may have been communication that occurred via Administrator Pruitt’s private e-mail to career staff about the Bristol Bay matters that are the subject of this request. You requested that EPA propose 2-3 additional key career staff to search for any such communication. Therefore, the Group B list is:

- Kevin Minoli
- Michelle Pirzadeh
- Mike Shapiro

Group C: EPA staff that may have communicated with the pre-inauguration Trump Transition

team.

During the follow up- phone call with you on March 29, 2017, I explained that all communications between the transition team and career staff were directed to go through Shannon Kenny in the Office of Policy. Therefore, the Group C list is:

- Shannon Kenny

For Request 1, Group A, B, and C custodians will be searched.

For Request 2, Group A custodians will be searched.

Processing Priority

Your priority is for communications from Administrator Pruitt or the Trump Transition Team to agency career employees about the topics described in Request 1 above. Therefore, your preference for processing is to prioritize Request 1 above.

Processing Fees

On March 23, 2017, the EPA's National Freedom of Information Office granted the fee waiver request that accompanied the FOIA request. Therefore, you will not be assessed fees.

Extension of Time and Estimated Date of Completion

Pursuant to 40 C.F.R. § 2.104(d), an extension of time to respond to your request is necessary. Given the scope of the request, EPA anticipates that the response will require EPA to:

- search for and collect the requested records from multiple EPA offices that are separate from the office processing the request and/or
- require consultation with another agency having a substantial interest in the determination of the request.

As we discussed on March, 29, 2017 the processing clock has been restarted for your FOIA request. Your request is currently due on April 25, 2017. You have requested rolling productions if possible.

Next Steps

EPA has initiated the coordination of and search for responsive records in our files. During the call, we agreed to set up regular check-in calls to keep you updated. **Our next call is scheduled for April 8, 2017 at 1:00 Pacific/ 4:00 Eastern.**

Please contact me at walker.denise@epa.gov or at (202) 564-6520, if you have any questions about your request. Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769

If you wish to request information connected to this request in the future, please reference the

FOIA request number.

Sincerely,

/s/ Denise A. Walker

Denise A. Walker
Office of General Counsel

From: [Kevin Bogardus](#)
To: [Palomaki, Ashley](#)
Subject: RE: EPA-R10-2018-004328 & 4329
Date: Thursday, February 15, 2018 6:36:40 PM

Ashley, I confirm the below. Thank you for your help.

Kevin Bogardus

E&E News Reporter

kbogardus@eenews.net

202-446-0401 (p)

202-247-7844 (c)

202-737-5299 (f)

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From: Palomaki, Ashley [Palomaki.Ashley@epa.gov]
Sent: Thursday, February 15, 2018 11:55 AM
To: Kevin Bogardus
Subject: RE: EPA-R10-2018-004328 & 4329

Hi Kevin –

Thanks for the discussion yesterday.

Per our conversation, we will close 2018-4328, which is the FOIA that you submitted to headquarters.

The Region will identify custodians within the Region 10, Administrator's Office, Headquarters Office of Water, and the Headquarters Congressional Office and conduct the search.

At the moment, we have identified the following custodians that may have responsive documents but I am working with headquarters to identify additional custodians:

- Administrator Pruitt
- Ryan Jackson
- Lee Forsgren
- Troy Lyons
- Chris Hladick
- Michelle Pirzadeh

You clarified that you seek communications to and from the following individuals or entities: Alaska

Department of Environmental Conservation Commissioner Larry Hartig Sen. Lisa Murkowski Sen. Dan Sullivan Rep. Don Young Alaska Speaker Bryce Edgmon Robert "Bob" Gillam Donald Trump Jr. Eric Trump Backcountry Hunters and Anglers President and CEO Land Tawney Tom Douglas Restaurants CEO Tom Douglas Orvis CEO

Perk Perkins Any individual employed and/or affiliated with Publix supermarkets Any individual employed and/or affiliated with Hyvee supermarkets.

The date range for your search is May 12, 2017 to Jan. 26, 2018.

The subject matter for your search is: the May 2017 settlement agreement with the Pebble Limited Partnership and EPA's proposed withdrawal of the 2014 Proposed Determination for the Pebble deposit.

Please confirm our discussion.

Thanks for your time.

Ashley

Ashley Palomaki

Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

From: Kevin Bogardus [mailto:kbogardus@eenews.net]

Sent: Tuesday, February 13, 2018 5:35 PM

To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>

Subject: RE: EPA-R10-2018-004328 & 4329

Thanks for the email, Ashley. Can we talk at 3 pm EST tomorrow? Let me know. Thanks again for your help.

Kevin Bogardus

E&E News Reporter
kbogardus@eenews.net
202-446-0401 (p)
202-247-7844 (c)
202-737-5299 (f)

Follow me [@KevinBogardus](https://twitter.com/KevinBogardus)

E&E News

122 C Street, NW, Suite 722, Washington, DC 20001

From: Palomaki, Ashley [Palomaki.Ashley@epa.gov]

Sent: Tuesday, February 13, 2018 7:46 PM

To: Kevin Bogardus

Subject: EPA-R10-2018-004328 & 4329

Dear Mr. Bogardus:

This email concerns the above-referenced Freedom of Information Act (FOIA) requests, received by the U.S. Environmental Protection Agency Headquarters and Region 10 on February 12, 2018, in which you requested:

I request all records from the following individuals and entities related to EPA's settlement agreement with Pebble

Limited Partnership announced May 12, 2017 and/or EPA's removal of proposed restrictions on the Bristol Bay, Alaska

gold and copper mine project known as "Pebble Mine" announced on Jan. 26, 2018 from May 12, 2017 to Jan. 26, 2018.

Please click on these links for more detail on these actions by EPA

(<https://www.epa.gov/newsreleases/epa-and-pebblelimited-partnership-reach-settlement-agreement> and <https://www.epa.gov/newsreleases/epa-administrator-scott-pruittsuspends-withdrawal-proposed-determination-bristol-bay>).

Please consider any emails, letters, memorandums, written

notes, text messages, voice and video recordings as well as other documented forms of communication as responsive

records to my request. Please consider records to and from the following individuals and entities as responsive records

to my request: Alaska Department of Environmental Conservation Commissioner Larry Hartig Sen. Lisa Murkowski Sen.

Dan Sullivan Rep. Don Young Alaska Speaker Bryce Edgmon Robert "Bob" Gillam Donald Trump Jr. Eric Trump

Backcountry Hunters and Anglers President and CEO Land Tawney Tom Douglas Restaurants CEO Tom Douglas Orvis CEO

Perk Perkins Any individual employed and/or affiliated with Publix supermarkets Any individual employed and/or affiliated with Hyvee supermarkets

Parts of your request do not reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them, as required by 40 C.F.R. § 2.102(c).

EPA's FOIA regulations state:

“Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request.” 40 C.F.R. § 2.102(c).

I would like to discuss the request with you to clarify the request and better understand the records you are seeking. For example, in one part of your request, you state that you are only seeking records “from” the listed individuals and entities and in a different part of your request, you state that you are seeking records “to and from” the listed individuals and entities.

Please respond within ten calendar days from the date of this email to arrange a time to discuss your request. Please suggest some times that will work for you. If we do not receive a response from you within ten calendar days, we will consider your request to be voluntarily withdrawn. Once the request is clarified, we will continue processing your FOIA request and provide you with an updated estimated timeframe for completion.

Sincerely,

Ashley Palomaki

Ashley Palomaki

Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

From: [Brian Litmans](#)
To: [Palomaki, Ashley](#)
Subject: RE: EPA-R10-2018-5178
Date: Wednesday, March 28, 2018 4:01:55 PM

Ashley,

This email confirms the refined scope you identify below.
If it is possible, I would like to extend the date range from

Date Range:

December 1, 2017 – March 6, 2018.

To

Date Range:

December 1, 2017 – March 28, 2018.

Can you let me know how long EPA anticipates it will take to complete the production?

Thanks, Brian

Brian Litmans
Trustees for Alaska
[\(907\) 276-4244 x 107](tel:(907)276-4244x107)
blitmans@trustees.org

From: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Sent: Wednesday, March 28, 2018 2:36 PM
To: Brian Litmans <blitmans@trustees.org>
Subject: RE: EPA-R10-2018-5178

Brian -

This email is in response to your FOIA request, EPA-R10-2018-5178. Your original request sought the following:

- All correspondence between the EPA and the U.S. Army Corps of Engineers regarding the proposed Pebble mine project National Environmental Policy Act (NEPA) process and review and/or Clean Water Act Section (CWA) 404 permitting process and review. This request is limited to all documents from December 1, 2017 to present.
- All internal EPA correspondence regarding the proposed Pebble mine project and NEPA and/or CWA Section 404 permitting process and review. This request is limited to all documents from December 1, 2017 to present.

Clarification:

On March 23, 2018, we spoke regarding the scope of your request. During this conversation you clarified your request as discussed below.

Subject Matter:

During the March 23, 2018 call, you agreed that EPA can exclude:

- Documents related to EPA's Section 404(c) action related to the Pebble deposit and EPA's July 2017 Proposal to Withdraw the 2014 Proposed Determination for the Pebble deposit.

Custodians:

During the March 23, 2018 call, you clarified that EPA should search the files of the Region 10 and Headquarters management and political appointees for potentially responsive documents, including the EPA project manager for the proposed Pebble mine project National Environmental Policy Act (NEPA) process and review and/or Clean Water Act Section (CWA) 404 permitting process and review. Based on this clarification, EPA has initiated a search of the files of the following individuals:

- Chris Hladick
- David Allnutt
- Jill Nogi
- Michael Szerlog
- Patty McGrath
- Lee Forsgren
- Kelly Knight
- Rob Tomiak

Key Words:

EPA will use the following key words to search for potentially responsive emails: "Bristol Bay" or "Pebble" or "PLP"

Date Range:

December 1, 2017 – March 6, 2018.

Record Types:

You indicated you are interested in e-mails, non-email electronically stored information, and paper documents. When we search for non-email electronically stored information and paper documents, can we omit documents that are attached to responsive emails if they are duplicative?

Next Steps:

Please confirm that this email accurately captures your request. Once I receive your response and instruction for searching non-email electronically stored information and paper documents, EPA will continue with searching for responsive records in our files.

Please contact me if you have any questions about your request or want to further clarify. Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you wish to request information connected to this request in the future, please reference the FOIA request number.

Thanks,

Ashley

Ashley Palomaki

Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

From: Brian Litmans [<mailto:blitmans@trustees.org>]
Sent: Friday, March 23, 2018 2:05 PM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Cc: McGrath, Patricia <mcgrath.patricia@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>
Subject: RE: EPA-R10-2018-5178

Hi – Are we still on for 1pmAK/2pm Pacific today?

My direct line is 907-433-2007

Brian Litmans
Trustees for Alaska
(907) 276-4244 x 107
blitmans@trustees.org

From: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Sent: Wednesday, March 21, 2018 6:35 PM
To: Brian Litmans <blitmans@trustees.org>
Cc: McGrath, Patricia <mcgrath.patricia@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>
Subject: RE: EPA-R10-2018-5178

Yes, that works. I'll call you then. Thanks.

Ashley Palomaki

Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101

206-553-8582

From: Brian Litmans [<mailto:blitmans@trustees.org>]
Sent: Wednesday, March 21, 2018 7:24 PM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Cc: McGrath, Patricia <mcgrath.patricia@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>
Subject: Re: EPA-R10-2018-5178

Ashley,

Friday will work better for me.

Does 1pm AK/2pm Pacific on Friday work for you?

thanks, Brian

From: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Sent: Wednesday, March 21, 2018 6:21:12 PM
To: Brian Litmans
Cc: McGrath, Patricia; Vaughan, Molly
Subject: RE: EPA-R10-2018-5178

Hi Brian –

Thanks for the quick response.

Here are some available times (all pacific):

Tomorrow: 9-10 or after 2pm

Friday: Anytime except for 12:30-1:30

I can look at next week too if we can't make this week work.

Best,

Ashley

Ashley Palomaki

Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

From: Brian Litmans [<mailto:blitmans@trustees.org>]
Sent: Wednesday, March 21, 2018 7:17 PM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Cc: McGrath, Patricia <mcgrath.patricia@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>
Subject: Re: EPA-R10-2018-5178

Hi Ashley,

What day/time would work best for you?

thanks, Brian

From: Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Sent: Wednesday, March 21, 2018 6:10:40 PM
To: Brian Litmans; Jennie Frost
Cc: McGrath, Patricia; Vaughan, Molly
Subject: EPA-R10-2018-5178

Dear Mr. Litmans and Ms. Frost:

This email concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency on March 6, 2018, in which you requested:

- All correspondence between the EPA and the U.S. Army Corps of Engineers regarding the proposed Pebble mine project National Environmental Policy Act (NEPA) process and review and/or Clean Water Act Section (CWA) 404 permitting process and review. This request is limited to all documents from December 1, 2017 to present.
- All internal EPA correspondence regarding the proposed Pebble mine project and NEPA and/or CWA Section 404 permitting process and review. This request is limited to all documents from December 1, 2017 to present.

Parts of your request do not reasonably describe the records you are seeking in a way that will permit EPA employees to identify and locate them, as required by 40 C.F.R. § 2.102(c).

EPA's FOIA regulations state:

“Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request.” 40 C.F.R. § 2.102(c).

I would like to discuss the request with you to clarify the request and better understand the records you are seeking.

Please respond within ten calendar days from the date of this email to arrange a time to discuss your request. Please suggest some times that will work for you. If we do not receive a

response from you within ten calendar days, we will consider your request to be voluntarily withdrawn. Once the request is clarified, we will continue processing your FOIA request and provide you with an updated estimated timeframe for completion.

Sincerely,

Ashley Palomaki

Ashley Palomaki

Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 900, ORC-113
Seattle, WA 98101
206-553-8582

From: [Kevin Bogardus](#)
To: [Palomaki, Ashley](#)
Subject: Re: EPA-R10-2017-007268
Date: Tuesday, May 30, 2017 7:20:44 PM

Ashley, I confirm the below. Let me know if you need anything else. Thanks for your help.

-Kevin

Sent from my iPhone

On May 30, 2017, at 7:31 PM, Palomaki, Ashley <Palomaki.Ashley@epa.gov> wrote:

Dear Mr. Bogardus:

This email is in response to your FOIA request, EPA-R10-2017-007268. Your original request sought the following:

I request all communication records related to the creation of EPA's May 12, 2017 press release entitled "EPA and Pebble Limited Partnership Reach Settlement Agreement". Please click on this link for more detail on this press release (<https://www.epa.gov/newsreleases/epa-and-pebble-limited-partnership-reach-settlement-agreement>). Please consider any emails, letters, memorandums, text messages, voice and video recordings as well as other documented forms of communication -- including but not limited to records sent and from any individual employed and/or affiliated with Northern Dynasty Minerals, Ltd. and/or Pebble Limited Partnership -- related to the creation of this press release as responsive records to my request.

Clarification:

On May 23, 2017, we spoke regarding the scope of your request. During this conversation you clarified your request as discussed below.

Subject Matter:

During the May 23, 2017 call, you indicated you are interested in:

<!--[if !supportLists]-->1. <!--[endif]-->Internal EPA discussion and documents related to the May 12, 2017 press release entitled "EPA and Pebble Limited Partnership Reach Settlement Agreement," which can be accessed here: <https://www.epa.gov/newsreleases/epa-and-pebble-limited-partnership-reach-settlement-agreement>.

<!--[if !supportLists]-->2. <!--[endif]-->External communications with the Pebble Limited Partnership, Northern Dynasty Minerals, Ltd., or their representatives about the May 12, 2017 press release entitled "EPA and Pebble Limited Partnership Reach Settlement Agreement," which can be accessed here: <https://www.epa.gov/newsreleases/epa-and-pebble-limited-partnership-reach-settlement-agreement>.

[reach-settlement-agreement.](#)

Key Words:

During the May 23, 2017 call, you clarified that EPA can use the following key words to search for potentially responsive documents: “Bristol Bay” or “Pebble.”

Custodians:

During the May 23, 2017 call, you clarified that EPA should search the files of the Region 10 and Headquarters press team for potentially responsive documents. Based on this clarification, EPA has identified the Region 10 and Headquarters press and communications staff that worked on the May 12, 2017 press release and will search the files of the following individuals:

<!--[if !supportLists]-->	<!--[endif]-->	Suzanne Skadowski
<!--[if !supportLists]-->	<!--[endif]-->	Marianne Holsman
<!--[if !supportLists]-->	<!--[endif]-->	Jeff Philip
<!--[if !supportLists]-->	<!--[endif]-->	Nancy Grantham
<!--[if !supportLists]-->	<!--[endif]-->	Liz Bowman
<!--[if !supportLists]-->	<!--[endif]-->	JP Freire

Date Range:

Based on the subject matter listed above, EPA will use the following date range, which was determined based on when the first email draft of the press release was circulated at EPA: May 9, 2017 – May 12, 2017.

Record Types:

You indicated you are interested in e-mails, non-email electronically stored information, and paper documents. When we search for non-email electronically stored information and paper documents, can we omit documents that are attached to emails?

Next Steps:

Please confirm that this email accurately captures your request. Once I receive your response and instruction for searching non-email electronically stored information and paper documents, EPA will proceed with searching for responsive records in our files.

Please contact me if you have any questions about your request or want to further clarify. Additionally, you may seek assistance from EPA’s FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services

(OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

If you wish to request information connected to this request in the future, please

reference the FOIA request number.

Thanks,

Ashley

Ashley Palomaki

Assistant Regional Counsel

U.S. EPA Region 10 Office of Regional Counsel

1200 Sixth Avenue, Suite 900, ORC-113

Seattle, WA 98101

206-553-8582



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101-3123

OFFICE OF
ENVIRONMENTAL REVIEW
AND ASSESSMENT

Mr. Brian Litmans
Trustees for Alaska
1026 West 4th Avenue, Suite 201
Anchorage, Alaska 99501

Re: Freedom Information Act Request dated November 27, 2018

Dear Mr. Litmans:

This is in response to your Freedom of Information Act request submitted to the United States Environmental Protection Agency on November 27, 2018, in which you requested the same categories of documents that you originally requested via the FOIA on March 5, 2018, as clarified on March 28, 2018 through an email exchange with Ashley Palomaki, but with a date range of March 29, 2018 to the present.¹

This FOIA request is an expansion of FOIA request EPA-R10-2019-000135, dated October 2, 2018, as clarified via an email exchange with Ashley Palomaki that ended on November 15, 2018. The November 27, 2018, request seeks similar categories of documents and expands the timeframe. Given that the November 27, 2018 request covers a similar scope as FOIA request EPA-R10-2019-000135, and for administrative efficiency, the EPA will combine the requests and process them accordingly. The combined scope of both FOIA requests is described below.

- (1) All correspondence between the EPA and the U.S. Army Corps of Engineers regarding the proposed Pebble mine project National Environmental Policy Act process and review and/or Clean Water Act Section 404 permitting process and review.
 - This portion of the request includes EPA comments and communications regarding any draft of the USACE' Scoping Report (final report dated August 31, 2018), which was prepared for the proposed Pebble mine project NEPA process. Communications should include, but are not limited to, EPA emails with poaspecialprojects@usace.army.mil either as recipient, cc, or sender.
 - This portion of the request includes external EPA comments and communications regarding draft Environmental Impact Statement chapters and appendices for the proposed Pebble Mine EIS.
 - This portion of the request does not include documents related to the EPA's Section 404(c) action related to the Pebble deposit and the EPA's July 2017 Proposal to Withdraw the 2014 Proposed Determination for the Pebble deposit.
 - Date Range: March 29, 2018 – November 27, 2018.

¹ While your FOIA request specified a start date of March 6, 2018, the EPA has already processed responsive documents from March 6, 2018 through March 28, 2018, in response to your FOIA request, EPA-R10-2018-005178. As a result, in a telephone conversation with Ashley Palomaki on December 4, 2018, you agreed to change the start date to March 29, 2018.

- Custodians: Region 10 and Headquarters management and political appointees; the EPA project manager for the proposed Pebble mine project NEPA process and review and/or CWA 404 permitting process and review; lead NEPA reviewer; and lead CWA 404 reviewers in Region 10 and Headquarters.
- (2) All internal EPA correspondence regarding the proposed Pebble mine project and NEPA and/or CWA 404 permitting process and review.
- This portion of the request includes EPA comments and communications regarding any draft of the USACE' Scoping Report (final report dated August 31, 2018), which was prepared for the proposed Pebble mine project NEPA process.
 - This portion of the request includes internal EPA comments and communications regarding Draft EIS chapters and appendices for the proposed Pebble Mine EIS.
 - This portion of the request does not include documents related to the EPA's Section 404(c) action related to the Pebble deposit and the EPA's July 2017 Proposal to Withdraw the 2014 Proposed Determination for the Pebble deposit.
 - Date Range: March 29, 2018 – November 27, 2018
 - Custodians: Region 10 and Headquarters management and political appointees; the EPA project manager for the proposed Pebble mine project NEPA process and review and/or CWA 404 permitting process and review; lead NEPA reviewer; and lead CWA 404 reviewers in Region 10 and Headquarters.
- (3) EPA communications, both sent and received, with the Pebble Limited Partnership or its representatives, as well as EPA minutes and notes from any meetings, in person or telephonically, with the Pebble Limited Partnership or its representatives.
- This portion of the request includes communications and/or meetings with the Pebble Limited Partnership or its representatives related to Pebble deposit site visits.
 - Date Range: October 1, 2017 to November 27, 2018.

The EPA has initiated the search for responsive records in our files. The EPA is anticipating making its next production of responsive records under EPA-R10-2019-000135 on January 15, 2019. If you have any questions in the interim or about this letter, please contact Ashley Palomaki at palomaki.ashley@epa.gov or at (206) 553-8582. If you wish to request information connected to this request in the future, please reference the FOIA request number.

In addition, you may contact the EPA FOIA Public Liaison at (202) 566-1667 with questions or to assist with this matter. You may also seek dispute resolution services from the Office of Government Information Services.

You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (301) 837-1996 or (877) 684-6448; or fax, (301) 837-0348.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. David Allnutt', with a stylized flourish at the end.

R. David Allnutt, Director
Office of Environmental Review and Assessment