EPA-HQ-2019-008587 has been approved for an interim release.

Thank you for your Freedom of Information Act request.

The Environmental Protection Agency has received numerous Freedom of Information Act requests pertaining to Bristol Bay. We are diligently processing these requests.

Interim Release

Prod 6 is 668 pages.

The records are responsive to several requests and include materials responsive to your Freedom of Information Act (FOIA) request. This release also includes materials that the EPA is proactively releasing to you. It includes documents that have been partially withheld. The reasons for the withholdings are printed over the redactions.

The records are available at this link:
https://www.foiaonline.gov/foiaonline/action/public/submissionDetails?trackingNumber=EPA-R10-2019-008233&type=request

Next Steps

We will continue processing your request. We estimate that we will provide another release on or before July 24, 2020.

You may email Denise Walker at walker.denise@epa.gov or contact Denise at 202-564-6520 if you have any further questions. If you wish to request information connected to this request in the future, please reference the FOIA request number. For all media inquiries, please contact press@epa.gov .

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.

Sincerely,

/s/ Denise A. Walker

Denise A. Walker

Office of General Counsel

AMERICAN OVERSIGHT

To: Ex. 6 Personal Privacy (PP)
From: EPA Press Office[press@epa.gov]
Sent: Tue 7/30/2019 6:00:21 PM (UTC)
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) – Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

"After today's action EPA will focus on the permit review process for the Pebble Mine project" **said Region 10 Administrator Chris Hladick.** "The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014."

By withdrawing the 2014 Proposed Determination, which was issued preemptively and is now outdated, the agency can continue its focus on fulfilling its responsibilities under the Clean Water Act to work with the Army Corps to review the permit.

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process.

"Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**.

EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with

AMERICAN OVERSIGHT

lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

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Washington, D.C. 20004

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

March 22, 2019

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: One-Time Delegation of Authority to Perform Functions and Responsibilities Assigned to the Administrator in 40 C.F.R. Part 231 Pertaining to the Clean Water Act Section 404(c) Process Regarding Use of an Area as a Disposal Site in the Pebble Deposit Area, Southwest Alaska

FROM: Andrew R. Wheeler
Administrator

TO: Matthew Z. Leopold
General Counsel

I hereby delegate to the General Counsel the authority to perform all functions and responsibilities retained by the Administrator or previously delegated to the Assistant Administrator for Water related to the Pebble Deposit Area, Southwest Alaska, including but not limited to the authorities assigned to the Administrator in 40 C.F.R. part 231 that were previously delegated to the Assistant Administrator for Water in Delegation of Authority 2-43 regarding EPA's ongoing Clean Water Act Section 404(c) action pertaining to the Pebble Deposit Area.

1. **AUTHORITY.** To perform all functions and responsibilities retained by the Administrator or previously delegated to the Assistant Administrator for Water related to the Pebble Deposit Area, Southwest Alaska, including but not limited to the authorities assigned to the Administrator in 40 C.F.R. part 231 regarding EPA's ongoing Clean Water Act Section 404(c) action pertaining to the Pebble Deposit Area.

2. **TO WHOM DELEGATED.** The General Counsel.

3. **LIMITATIONS.** This delegation is limited to the purposes stated above. This delegation does not affect functions and responsibilities assigned or delegated to Agency officials other than the Administrator and the Assistant Administrator for Water.

4. **REDELGATION AUTHORITY.** This authority may not be redelegated.

5. **ADDITIONAL REFERENCES.** Clean Water Act Section 404, 33 U.S.C. § 1344 — Permits for Dredged or Fill Material; 40 C.F.R. part 231 — Section 404(c) Procedures.

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ED_002890_00000687-00001
EPA-19-1101-G-000003
Bristol Bay/Pebble Mine 2019
FOIAs_Production006

To: Administrator / Ex. 6
From: Molina, Michael[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D19C1D68DA1A4587866E1850F22A6AE5-MOLINA, MIC]
Sent: Fri 3/22/2019 9:00:17 PM (UTC)
Subject: FW: Delegation Memo
Revised Bristol Bay one time delegation.docx

From: Fotouhi, David
Sent: Friday, March 22, 2019 5:00 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

A revised version is attached; let me know if it fits the bill. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Administrator/ Ex. 6
From: Molina, Michael[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D19C1D68DA1A4587866E1850F22A6AE5-MOLINA, MIC]
Sent: Fri 3/22/2019 5:54:50 PM (UTC)
Subject: FW: Delegation Memo
Bristol Bay one time delegation.docx

From: Fotouhi, David
Sent: Friday, March 22, 2019 1:48 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

Hey David,

Matt told me to reach out to you about the delegation of authority memo.

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

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COMPETITIVE ENTERPRISE INSTITUTE

March 20, 2019

Andrew Wheeler
Administrator
United States Environmental Protection Agency
Washington, D.C. 20460

Re: Request for Correction Number 19001 Pertaining to the Bristol Bay Watershed Assessment

Dear Administrator Wheeler:

On November 14, 2018, the Competitive Enterprise Institute filed a Request for Correction regarding the Environmental Protection Agency's Bristol Bay Watershed Assessment (BBWA) and consequent agency action rejecting the Pebble Mine project in Alaska. As discussed in the request, the BBWA fell well short of the standards set out in the Information Quality Act and your agency's implementing guidelines. We believe the best course of action for the agency would be to withdraw this highly flawed assessment and rescind the use of it to veto the Pebble project.

We noted in particular that the data-gathering process for the BBWA was inherently flawed in that no permit application for the Pebble Mine had yet been submitted. For this reason, EPA's analysis was based on its own guess of what a future application might look like. We also noted that important stakeholders, including the State of Alaska, complained that they had limited input into the BBWA process. Similarly, the Army Corps of Engineers, statutorily the lead agency on such permit applications, declined to participate on the grounds that without a permit application any analysis would be premature and speculative. We also detailed the selective use of inputs and expertise in developing the BBWA as well as numerous instances of bias. Overall, there were both substantive and process flaws to the BBWA that made it suspect under the Information Quality Act.

We concluded our Request for Correction by noting that the Army Corps of Engineers had begun its far more robust and comprehensive review of the Pebble Mine based on the actual permit application. Indeed, EPA's pre-emptive veto represented the first and only time the agency took such action prior to an Army Corps of Engineers' permit review. Notwithstanding EPA's efforts towards circumventing the process, the Army Corps has continued its work and has now reached the important stage of introducing a detailed Draft Environmental Impact Statement (DEIS) and opening it up to comment by all interested parties. Thus far, this process is proving itself to be everything the BBWA was not – timely, inclusive, exhaustive, and completely data-driven. As such, it comports well with the requirements of the Information Quality Act.

It should also be noted that, regardless of the status of the BBWA, EPA will have every opportunity to participate in the process now being led by the Army Corps of Engineers, beginning with agency comment on the DEIS. Furthermore, once the DEIS is finalized EPA will

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Bristol Bay/Pebble Mine 2019
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have the opportunity to consider exercising its veto authority over the project. However, in sharp contrast to the agency's previous veto based on the BBWA, this decision would be a much better informed one based on a more comprehensive record and higher quality data. The continued existence of the flawed BBWA as EPA's official position on the Pebble Mine can only undercut this process.

For these reasons, we again respectfully request the agency to create a clean slate by promptly withdrawing its BBWA and veto of the Pebble Mine, and instead participate in the Army Corps process now underway. Thank you.

Respectfully Submitted,

Ben Lieberman
Senior Fellow
ben.lieberman@cei.org
202-331-1010

Competitive Enterprise Institute
1310 L Street NW, 7th Floor
Washington, DC 20005

AMERICAN OVERSIGHT

To: Darwin, Henry[darwin.henry@epa.gov]
Cc: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: Thur 9/20/2018 4:21:43 PM (UTC)
Subject: Re: Thomas Allen

Thanks for the Information

Sent from my iPhone

On Sep 20, 2018, at 10:44 AM, Darwin, Henry <darwin.henry@epa.gov> wrote:

FYI
H

Sent from my iPhone

Begin forwarded message:

From: Thomas Allen <thomas@markeallenlaw.com>
Date: September 20, 2018 at 8:07:58 AM CDT
To: "darwin.henry@epa.gov" <darwin.henry@epa.gov>
Subject: Thomas Allen

Mr. Darwin,

It has been reported (E and E News) that Acting Administrator Wheeler has recused himself from Pebble. I was recently informed by your administration that he would not be recusing himself in a letter dated September 5, 2018. Can you please verify what is accurate? I feel like I have been misled.

It has also been reported (Bloomberg Environment) that the EPA has already decided to maintain the PD on the Pebble Mine. Can you please confirm?

Finally, it has been reported that EPA intends to render a decision on Pebble by the end of this month. What is the timeline looking like as of now? Thank you for your time and consideration in this matter.

Thomas Allen

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/2/2018 8:27:43 PM
To: Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in [redacted] Ex. 6 Personal Privacy (PP)

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Tentative

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: 5/31/2019 1:43:21 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]

Subject: Meeting with Alaska Delegation - Pebble Mine
Location: 2314 Rayburn HOB

Start: 6/3/2019 9:00:00 PM
End: 6/3/2019 10:00:00 PM
Show Time As: Tentative

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: 5/2/2019 7:20:07 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]

Subject: Meeting with Alaska Delegation - Pebble Mine
Location: 2314 Rayburn HOB

Start: 6/3/2019 9:00:00 PM
End: 6/3/2019 10:00:00 PM
Show Time As: Busy

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Appointment

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 5/2/2019 11:00:50 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Meeting with Alaska Delegation - Pebble Mine
Location: 2314 Rayburn HOB

Start: 6/5/2019 9:00:00 PM
End: 6/5/2019 10:00:00 PM

Recurrence: (none)

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Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/14/2018 5:19:42 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]

Subject: Bristol Bay comment period
Location: 3219B WJCE Call in **Ex. 6 Personal Privacy (Conf Code)**

Start: 3/16/2018 8:30:00 PM
End: 3/16/2018 9:15:00 PM
Show Time As: Busy

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Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/14/2018 5:19:42 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]

Subject: Bristol Bay comment period
Location: 3219B WJCE Call in Ex. 6 Personal Privacy (Conf Code)

Start: 3/16/2018 8:30:00 PM
End: 3/16/2018 9:15:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a055d7329d5b470fbaa9920ce1b68a7d-Forsgren, D]
Sent: 5/2/2019 7:20:07 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]

Subject: Meeting with Alaska Delegation - Pebble Mine
Location: 2314 Rayburn HOB

Start: 6/3/2019 9:00:00 PM
End: 6/3/2019 10:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Region 10 Briefing Paper for the Office of the Regional Administrator

MEETING/EVENT TITLE: Options for Additional Public Comment on Pebble/Bristol Bay 404(c) Action
MEETING DATE: March 7, 2018
LOCATION: R10 ET Conference Room; HQ 3233 WJCE
PREPARED BY: Pebble/Bristol Bay 404(c) team, including staff from R10, OW, and OGC
DATE: March 2, 2018
TARGET ATTENDEES: Chris Hladick (R10), Lee Forsgren (OW), David Fotouhi (OGC)
EXTERNAL PARTICIPANTS: N/A

I. PURPOSE

The purpose of this briefing is to discuss options and a recommendation for implementing EPA's commitment to seek additional public comment regarding EPA's ongoing Pebble/Bristol Bay 404(c) action. EPA's January 26, 2018 decision not to withdraw the 2014 Proposed Determination (PD) includes a commitment to seek additional public comment: "The Agency intends at a future time to solicit public comment on what further steps, if any, the Agency should take in the Section 404(c) process in order to prevent unacceptable adverse effects to the watershed's world-class fisheries in light of the permit application that has now been submitted to the Corps."

II. BACKGROUND

A. Section 404(c) Process

- EPA initiated this Section 404(c) process in 2014, issued a PD, and took public comment on the PD, but was prevented from responding to the public comments or completing its CWA Section 404(c) review because of a preliminary injunction associated with litigation brought by Pebble.
- A PD is the second step in EPA's four step CWA Section 404(c) review process of: 1) Initiation, 2) PD, 3) Recommended Determination (RD), and 4) Final Determination (FD) (40 CFR part 231). The relevant Region issues the PD and RD, and HQ-OW issues the FD that either rescinds, modifies, or affirms the RD (40 CFR 231.6).
    - A PD is issued if the Regional Administrator determines that unacceptable adverse effects "could result." An RD requires a determination that such effects "would be likely" to result and an affirmative FD that imposes restrictions or prohibitions requires a determination that such effects "will result" (40 CFR 231.3, 231.5, and 231.6).
- Under the terms of EPA's May 2017 settlement agreement with Pebble that resolved outstanding litigation, EPA can issue a new or modified PD, or withdraw the PD, at any time.
    - If EPA were to issue a new or modified PD, EPA would need to solicit public comment consistent with EPA's regulations.
- The timing associated with the next step in the 404(c) process, the RD, is limited by the settlement agreement: Region 10 may not forward a signed RD, if such a decision is made, to HQ before either May 11, 2021, or until the U.S. Army Corps of Engineers (Corps) completes a final Environmental Impact Statement (EIS) on Pebble's CWA Section 404 permit application, whichever comes first.

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- If at some point, after the time limits in the settlement agreement expire, Region 10 decides to forward an RD to HQ, EPA's 404(c) regulations do not require a public comment period at that time. In making a decision whether to issue an FD, EPA HQ must consult with the Corps, the relevant landowner, and the State.

B. Basis for 404(c) Decision-making

1. 2014 PD

- The 2014 PD is based, in part, on the Bristol Bay Watershed Assessment (BBWA), which evaluated the impacts of three potential mine scenarios at the Pebble deposit (0.25, 2.0 and 6.5 billon-ton mines) on fishery resources.
- The BBWA evaluated the impacts associated with the construction and routine operation of these three mine scenarios (including its transportation corridor), as well as the impacts of a series of possible accidents and failures that occur at mines of this type.
- The BBWA considered all compensatory mitigation information provided as of 2013 by Pebble and other commenters.
- The restrictions in the 2014 PD are based on an analysis of the direct and secondary impacts on fishery areas of the discharge of dredged or fill material into waters of the U.S. associated with the construction and routine operation of the 0.25 billion-ton mine scenario.
- The 2014 PD is focused just on the mine site, and does not address impacts from other project elements, such as the transportation corridor or a port on Cook Inlet or from any possible accidents or failures.

2. Information sources that could support decision whether to withdraw PD or forward an RD

- On December 22, 2017, Pebble submitted its CWA Section 404 permit application to the Corps that describes its proposed mine scenario for a 1.1 billion-ton mine at the Pebble deposit (i.e., in between the 0.25 and 2.0 billion-ton mine scenarios evaluated in the BBWA).

Ex. 5 Deliberative Process (DP)

- Pebble's permit application includes information and drawings describing the size and location of the components of the 1.1 billion-ton mine scenario. The application does not include any impact analysis or compensatory mitigation information; the expectation is that these would be developed during the NEPA process.
- As discussed below, the impact analysis that EPA should have before it seeks additional public comment could be generated in two ways: 1) the NEPA process or 2) an independent evaluation by EPA.
- When the necessary effects analysis is available, EPA could for example:

Ex. 5 Deliberative Process (DP)

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Ex. 5 Deliberative Process (DP)

III. OPTIONS DISCUSSION

Ex. 5 Deliberative Process (DP)

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Ex. 5 Deliberative Process (DP)

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Ex. 5 Deliberative Process (DP)

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Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/2/2018 8:27:43 PM
To: Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in **Ex. 6 Personal Privacy (PP)**

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Tentative

This meeting is nontransferable.

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[SEQ CHAPTER \h \r 1]Meeting/Event Request for Region 10 - Office of the Regional Administrator

Please submit this form for any official briefings/updates for the RA/DRA or event attendance requests.

Today's Date:

2/6/18

Requesting Office:

R10, OERA

Title/Topic of the Meeting/Event (please define any acronyms):

Bristol Bay 404(c) Post No-Withdrawal Comment Period Options

Administrator or Deputy Administrator or Both?

R10 RA and DRA, HQ OW Deputy AA Lee Forsgren, HQ OGC Deputy General Counsel David Fotouhi

Purpose (informational, decisional, other):

Provide options and recommendations regarding future comment period(s) for the Bristol Bay 404(c) process

Role of RA/DRA:

Ex. 5 Deliberative Process (DP)

Last possible date for the meeting (if urgent, explain why) or date of event:

Prefer to meet between February 22 and March 2nd.

Requested Time Length:

1 hour

EPA Staff (Required):

David Allnutt, Ashley Palomaki, Carrie Wehling and/or Heidi Nalven, Palmer Hough, John Goodin, Erik Peterson

EPA Staff (Optional):

Cara Steiner-Riley, Steven Neugeboren, Ashley Palomaki, Russel Kaiser, Brittany Bennett, Suzanne Skadowski, Neverly Shoemake, Patricia McGrath,

External Participants (please provide email address and/or point of contact):

N/A

Audio Line or Video Conference or other technology needs required (provide details)?

Conference line

NOTE: Please submit Meeting Requests to [HYPERLINK "mailto:R10-ORA@epa.gov"]. *All briefing materials must be provided by 3:00 pm* ***three days before*** *your meeting or the meeting may be rescheduled.*

AMERICAN OVERSIGHT

Point of Contact for the Meeting:

Erik Peterson, 206-553-6382

NOTE: Please submit Meeting Requests to [HYPERLINK "mailto:R10-ORA@epa.gov"]. *All briefing materials must be provided by 3:00 pm* ***three days before*** *your meeting or the meeting may be rescheduled.*

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a055d7329d5b470fbaa9920ce1b68a7d-Forsgren, D]
Sent: 5/31/2019 1:43:21 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]

Subject: Meeting with Alaska Delegation - Pebble Mine
Location: 2314 Rayburn HOB

Start: 6/3/2019 9:00:00 PM
End: 6/3/2019 10:00:00 PM
Show Time As: Tentative

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a055d7329d5b470fbaa9920ce1b68a7d-Forsgren, D]
Sent: 5/2/2019 7:20:08 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]

Subject: Meeting with Alaska Delegation - Pebble Mine
Location: 2314 Rayburn HOB

Start: 6/5/2019 9:00:00 PM
End: 6/5/2019 10:00:00 PM
Show Time As: Tentative

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
Cc: Mutz, John[mutz.john@epa.gov]
From: Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: Wed 5/1/2019 11:25:06 PM (UTC)
Subject: Re: Need help with Delegation Meeting

Will do.

Sent from my iPhone

On May 1, 2019, at 7:10 PM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

> Thanks Lee. Let me know if we need to do anything in addition to the Alaska delegation.
>
> **Matthew Z. Leopold**
> General Counsel
> U.S. Environmental Protection Agency
> (202) 564-8040
>
> ---
>
> **From:** Forsgren, Lee
> **Sent:** Wednesday, May 1, 2019 6:10 PM
> **To:** Mutz, John <mutz.john@epa.gov>
> **Cc:** Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
> **Subject:** FW: Need help with Delegation Meeting
>
> Looks like we have a deal with 5:00 pm on June 3rd.
>
> ---
>
> **From:** Day, Pamela <Pamela.Day@mail.house.gov>
> **Sent:** Wednesday, May 1, 2019 5:57 PM
> **To:** Forsgren, Lee <Forsgren.Lee@epa.gov>
> **Cc:** Rodrick, Christian <rodrick.christian@epa.gov>
> **Subject:** RE: Need help with Delegation Meeting
>
> Great – I will let the Senate offices know
>
> ---
>
> **From:** Forsgren, Lee <Forsgren.Lee@epa.gov>
> **Sent:** Wednesday, May 1, 2019 5:47 PM
> **To:** Day, Pamela <Pamela.Day@mail.house.gov>
> **Cc:** Rodrick, Christian <rodrick.christian@epa.gov>
> **Subject:** RE: Need help with Delegation Meeting
>
> Pam we can make that work.
>
> ---
>
> **From:** Day, Pamela <Pamela.Day@mail.house.gov>
> **Sent:** Wednesday, May 1, 2019 4:55 PM
> **To:** Forsgren, Lee <Forsgren.Lee@epa.gov>
> **Cc:** Rodrick, Christian <rodrick.christian@epa.gov>
> **Subject:** RE: Need help with Delegation Meeting
>
> The Senators have votes at 5:30, can we push the meeting up to 5?
>
> ---
>
> **From:** Forsgren, Lee <Forsgren.Lee@epa.gov>
> **Sent:** Tuesday, April 30, 2019 5:39 PM
> **To:** Day, Pamela <Pamela.Day@mail.house.gov>
> **Cc:** Rodrick, Christian <rodrick.christian@epa.gov>
> **Subject:** RE: Need help with Delegation Meeting

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Pam,
Will let you know the attendees – but it will almost certainly be Matt Leopold (EPA – General Counsel and the deciding official on the Pebble Mine), a representative from the EPA Office of Congressional and Intergovernmental Relations – Likely Christian Rodrick, and me.

Can you reach out to the Senators? You have more success getting them to agree to meet as a Delegation meetings. We end up meeting with everyone individually and it takes weeks.

Lee

From: Day, Pamela <Pamela.Day@mail.house.gov>
Sent: Tuesday, April 30, 2019 5:25 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Need help with Delegation Meeting

Sounds good – please let us know who will be attending.
We can host the meeting in our office – 2314 Rayburn. Are you going to reach out to the Senators or do you want me to?

From: Forsgren, Lee <Forsgren.Lee@epa.gov>
Sent: Tuesday, April 30, 2019 5:24 PM
To: Day, Pamela <Pamela.Day@mail.house.gov>
Subject: RE: Need help with Delegation Meeting

Pam,

We can make 5:30 work on the 3rd.

Lee

From: Day, Pamela <Pamela.Day@mail.house.gov>
Sent: Tuesday, April 30, 2019 2:04 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Need help with Delegation Meeting

It looks like he has something now until about 5 or 5:30 – could you come in right before votes? So 5:30 or 6?

From: Forsgren, Lee <Forsgren.Lee@epa.gov>
Sent: Tuesday, April 30, 2019 9:09 AM
To: Day, Pamela <Pamela.Day@mail.house.gov>
Subject: FW: Need help with Delegation Meeting

Pam,

June 3rd at 1:30pm would be optimal for us but we will adjust to the Delegation's needs. I presume it would be in one of the Delegation members' office?

Lee

From: Forsgren, Lee
Sent: Monday, April 29, 2019 3:28 PM
To: Day, Pamela <Pamela.Day@mail.house.gov>
Subject: RE: Need help with Delegation Meeting

Let me check on it.

AMERICAN OVERSIGHT

From: Day, Pamela <Pamela.Day@mail.house.gov>
Sent: Monday, April 29, 2019 3:26 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Need help with Delegation Meeting

Could do afternoon of June 3 or June 4.

From: Forsgren, Lee <Forsgren.Lee@epa.gov>
Sent: Monday, April 29, 2019 3:24 PM
To: Day, Pamela <Pamela.Day@mail.house.gov>
Subject: Need help with Delegation Meeting

Pam,

We might need some help setting up an Alaska Delegation Meeting on the Pebble mine and EPA's actions related to the proposed permit and the existing 404 (c) Veto determination. We would hope to brief the delegation on our actions before Matt Leopold (EPA's General Counsel and the deciding official given the recusals), Chris Hdladick and I travel to Alaska in mid-June. Might the first week in June work for you all?

Any assistance that you could provide would be most helpful.

Regards,
Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania, Avenue NW
Room 3219B WJC East Building
Washington, DC 20460
202-564-5700

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/10/2018 9:24:01 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]

Subject: Accepted: Call with ATR re Pebble Mine
Location: The conference phone number: **Ex. 6 Personal Privacy (Conf Line)**

Start: 3/12/2018 7:30:00 PM
End: 3/12/2018 8:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/9/2018 5:43:26 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]

Subject: Accepted: Call with ATR re Pebble Mine
Location: The conference phone number: **Ex. 6 Personal Privacy (Conf Line)**

Start: 3/12/2018 8:00:00 PM
End: 3/12/2018 8:30:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/1/2018 6:43:04 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 Personal Privacy (Conf Line)

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Bennett, Tate [Bennett.Tate@epa.gov]
Sent: 3/9/2018 5:37:50 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]

Subject: Call with ATR re Pebble Mine
Location: The conference phone number: **Ex. 6 Personal Privacy (Conf Line)**

Start: 3/12/2018 7:30:00 PM
End: 3/12/2018 8:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/1/2018 6:42:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call in Ex. 6 Personal Privacy (PP)

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/25/2019 4:58:01 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]

Subject: FW: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Busy

-----Original Appointment-----
From: Mutz, John (Fletcher) **On Behalf Of** Leopold, Matt (OGC)
Sent: Thursday, July 25, 2019 9:45 AM
To: Leopold, Matt (OGC); Neugeboren, Steven; Wehling, Carrie; Nalven, Heidi
Subject: Pebble Notice
When: Thursday, July 25, 2019 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 4000

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 7/25/2019 4:57:57 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]

Subject: FW: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Tentative

-----Original Appointment-----
From: Mutz, John (Fletcher) **On Behalf Of** Leopold, Matt (OGC)
Sent: Thursday, July 25, 2019 9:45 AM
To: Leopold, Matt (OGC); Neugeboren, Steven; Wehling, Carrie; Nalven, Heidi
Subject: Pebble Notice
When: Thursday, July 25, 2019 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 4000

AMERICAN OVERSIGHT

Appointment

From: Bennett, Tate [Bennett.Tate@epa.gov]
Sent: 3/9/2018 5:37:50 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]

Subject: Call with ATR re Pebble Mine
Location: The conference phone number: Ex. 6 Personal Privacy (Conf Line)

Start: 3/12/2018 7:30:00 PM
End: 3/12/2018 8:00:00 PM
Show Time As: Busy

The conference phone number: Ex. 6 Personal Privacy (Conf Line)
Participant code: Ex. 6 Personal Privacy (Conf Line)

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/1/2018 6:42:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in Ex. 6 Personal Privacy (Conf Line)

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

This meeting is nontransferable.

AMERICAN OVERSIGHT

Appointment

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/25/2019 4:58:01 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]

Subject: FW: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Busy

-----Original Appointment-----
From: Mutz, John (Fletcher) **On Behalf Of** Leopold, Matt (OGC)
Sent: Thursday, July 25, 2019 9:45 AM
To: Leopold, Matt (OGC); Neugeboren, Steven; Wehling, Carrie; Nalven, Heidi
Subject: Pebble Notice
When: Thursday, July 25, 2019 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 4000

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]
From: Drinkard, Andrea[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=808A6B7B65BF447F93DAD2F510FEAF61-ADRINKAR]
Sent: Thur 9/13/2018 8:08:47 PM (UTC)
Subject: Pebble
FW: Pebble question
FW: Pebble Mine press query
Fwd: BRISTOL BAY: Conservatives push Wheeler to help Pebble -- Monday, September 10, 2018 -- www.eenews.net

Three inquiries. Adding David so he's aware of each request. We've responded to the first with a simple 404g status statement that we've used in the past. We have not responded to the one from Bloomberg or politico.

AMERICAN OVERSIGHT

To: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Lynn, Tricia[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D8747BA49CDE485EA4AC58DBF09C3DCD-TRICIA SLUSSER]
Sent: Thur 9/13/2018 7:04:07 PM (UTC)
Subject: FW: Pebble question

Another. Same response?

From: Alex Guillen [mailto:aguillen@politico.com]
Sent: Thursday, September 13, 2018 2:48 PM
To: Press <Press@epa.gov>; Konkus, John <konkus.john@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Subject: Pebble question

Hello,

Has EPA restarted its process to withdraw the Proposed Determination on Pebble Mine in Alaska since it was suspended in February? If so, when does EPA plan to act? If not, is there a plan to resume the process?

Thank you,

Alex Guillen | Energy Reporter | **POLITICO**PRO
1000 Wilson Boulevard, 8th Floor | Arlington, VA 22209
Office: 703.341.4619 | Mobile: Ex. 6 Personal Privacy (PP)
Email: aguillen@politico.com | Twitter: @alexcguillen | Website: www.POLITICOPro.com

AMERICAN OVERSIGHT

To: Ex. 6 Personal Privacy (PP)
From: Lynn, Tricia[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D8747BA49CDE485EA4AC58DBF09C3DCD-TRICIA SLUSSER]
Sent: Thur 9/13/2018 1:27:01 PM (UTC)
Subject: Fwd: BRISTOL BAY: Conservatives push Wheeler to help Pebble -- Monday, September 10, 2018 -- www.eenews.net

Paul--
On background:
As outlined in the June 2018 memorandum, EPA is continuing its work to evaluate updates to the regulations governing EPA's role in the permitting process under section 404(c) of the Clean Water Act in order to increase predictability and provide regulatory certainty for landowners, investors, businesses and other stakeholders.
Best,

Tricia

From: Ex. 6 Personal Privacy (PP)
Sent: Wednesday, September 12, 2018 5:53 PM
To: Press <Press@epa.gov>
Subject: Fwd: BRISTOL BAY: Conservatives push Wheeler to help Pebble -- Monday, September 10, 2018 -- www.eenews.net

Hello I am following up on the below inquiry. Thanks.

Sent from my iPhone
Begin forwarded message:

> **From:** Paul Lebo Ex. 6 Personal Privacy (PP)
> **Date:** September 10, 2018 at 4:10:15 PM EDT
> **To:** press@epa.gov
> **Subject: BRISTOL BAY: Conservatives push Wheeler to help Pebble -- Monday, September 10, 2018 -- www.eenews.net**
>
> Hello,
>
> Could you confirm the following stmt from the attached article? Also, can you comment on timing, as article states "soon"?
>
> "Sources have told E&E that EPA will soon issue a rule to codify the memo, which forbids Section 404(c) action either preemptively - like for Pebble - or retroactively - as in the case of a West Virginia coal mine during the Obama administration"
> https://www.eenews.net/greenwire/2018/09/10/stories/1060096407
>
> Thanks
> Paul Lebo

Conservatives push Wheeler to help Pebble

Dylan Brown, E&E News reporter
Published: Monday, September 10, 2018

An aerial view of the Pebble mine camp site in 2011. Jason Sear/Flickr
With a new leader at EPA, influential conservatives renewed their demands for the agency to scrap proposed limits on the controversial Pebble Mine project in Alaska.

A letter last week updated the previous call to action sent to former EPA chief Scott Pruitt (*Greenwire*, April 5).

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Americans for Tax Reform President Grover Norquist headlined the missive, which was also signed by Myron Ebell, the former Trump EPA transition team head and director of the Competitive Enterprise Institute's Center for Energy and Environment.

In January, Pruitt infuriated his usual allies by killing his own proposal to eliminate the 2014 proposed determination restricting large-scale mining in the watershed of Bristol Bay — home to the massive Pebble copper and gold deposit and headwaters of the world's largest sockeye salmon fishery.

Before resigning in July, Pruitt did issue a memo limiting how EPA can use its Clean Water Act Section 404(c) power to veto Army Corps of Engineers permits.

Sources have told E&E News that EPA will soon issue a rule to codify the memo, which forbids Section 404(c) action either pre-emptively — like for Pebble — or retroactively — as in the case of a West Virginia coal mine during the Obama administration (*Greenwire*, Aug. 17).

Deriding the power as akin to "federal zoning" laws, the limited-government groups said acting EPA Administrator Andrew Wheeler must make an example out of the determination still looming over the Pebble project.

"The Agency can make sure that this message is received clearly by communicating that these rules will apply to all current and proposed projects, not just future permit applications," the letter states.

"So long as the preemptive veto on Pebble Mine remains in place," it says, "there remains a dangerous precedent for future administrations to undermine a fair, traditional, and rational permitting process."

Alaska Native, fishing interests and conservation groups have staunchly defended the determination to protect the region's multibillion-dollar salmon industry.

Among the other conservative groups that signed onto the letter were the American Business Defense Council, Americans for Limited Government, Americans for Prosperity, the American Lands Council, Public Lands for the People, Reaching America, the 60 Plus Association, the Independence Institute, the James Madison Institute, the Rio Grande Foundation and the John K. MacIver Institute for Public Policy.

Sent from my iPhone

AMERICAN OVERSIGHT

To: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
Cc: Forsgren, Lee[Forsgren.Lee@epa.gov]; Wildeman, Anna[wildeman.anna@epa.gov]; Frye, Tony (Robert)[frye.robert@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Palich, Christian[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=330AD62E158D43AF93FCBBECE930D21A-PALICH, CHR]
Sent: Wed 7/11/2018 9:16:58 PM (UTC)
Subject: RE: Murkowski Call w/ AW

Thank you Andrea.

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

From: Drinkard, Andrea
Sent: Wednesday, July 11, 2018 5:07 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: Murkowski Call w/ AW

Here are the pebble TPs. I'm adding David F to take a look at the last bullet since it's about the 404c memo that we just put out. I know we're out of time but I want to make sure he's aware of this and has a chance to weigh in.

Pebble Talking Points

- Ex. 5 Deliberative Process (DP)

Sent from my iPhone
On Jul 11, 2018, at 4:54 PM, Palich, Christian <palich.christian@epa.gov> wrote:

Alaska MOU is the most important one for tomorrow based on my convo with her staff.

AMERICAN OVERSIGHT

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

From: Drinkard, Andrea
Sent: Wednesday, July 11, 2018 4:41 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Murkowski Call w/ AW

We're still tweaking Bristol Bay and the MOU TPs. In meantime, here's a one pager on fish grinding. Back to you ASAP.

From: Palich, Christian
Sent: Wednesday, July 11, 2018 4:27 PM
To: Ross, David P <ross.davidp@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Murkowski Call w/ AW

Hi All,

Thanks Dave. Need this asap team OW, has to get in Administrators binder by 4. Thank you.

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

From: Ross, David P
Sent: Wednesday, July 11, 2018 4:21 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Murkowski Call w/ AW

Thanks all. I'm recused on Pebble so please drop me from the response if it is substantive.

Sent from my iPhone
On Jul 11, 2018, at 1:46 PM, Palich, Christian <palich.christian@epa.gov> wrote:

> Thank you!
>
> Christian R. Palich
> Deputy Associate Administrator
> Office of Congressional Affairs
> C: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

Sent from my iPhone
On Jul 11, 2018, at 1:42 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

> Yes, we'll pull this together. Back to you ASAP.
>
> Sent from my iPhone
> On Jul 11, 2018, at 1:37 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:
>
> > I think Andrea can put them together with OWOW's help.
> >
> > Sent from my iPhone
> > On Jul 11, 2018, at 6:11 PM, Palich, Christian <palich.christian@epa.gov> wrote:
> >
> > > Hi Team OW,
> > >
> > > Can I get one or two quick talking points on latest actions on below issues for a call with Senator Murkowski and the Administrator tomorrow? Thanks!
> > >
> > > - Fish Grinding
> > > - Alaska MOU
> > > - Bristol Bay/Pebble Mine
> > >
> > > Christian R. Palich
> > > *Deputy Associate Administrator*
> > > *Office of Congressional & Intergovernmental Affairs*
> > > *U.S Environmental Protection Agency*
> > > *O: 202.564.4944*
> > > *C:* Ex. 6 Personal Privacy (PP)
> > > *E: Palich.Christian@epa.gov*

AMERICAN OVERSIGHT

Message

From: Nalven, Heidi [Nalven.Heidi@epa.gov]
Sent: 6/26/2018 1:14:28 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
CC: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: For your review - Bristol Bay, Gosar/Congressional Western Caucus CMS Response
Attachments: Western Caucus Response DRAFT 6.22.18.docx; Western Caucus .pdf

Flag: Follow up

Hi David,

Hi David – You had expressed an interest in reviewing OW's draft response to the Congressional Western Caucus letter. Attached is OW's latest draft. Brian sent a follow-up message indicating that the program is hoping to get this out quickly.

Thanks,
Heidi

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Frazer, Brian
Sent: Friday, June 22, 2018 3:04 PM
To: Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Bennett, Brittany <bennett.brittany@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: Review: Bristol Bay, Gosar/Congressional Western Caucus CMS Response

Hi Heidi,

Attached, find the final draft Bristol Bay, Gosar/Congressional Western Caucus response letter for David F's review. We have uploaded the letter to CMS, however, it will be on hold until Lee and David's review.

Let us know if there's any questions or concerns.

Thanks.

bf

AMERICAN OVERSIGHT

Congress of the United States
House of Representatives
Washington, DC 20515-0301

May 3, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Mail Code: 1101A
Washington, D.C. 20460

Dear Administrator Pruitt,

We write to express our concerns with regards to the EPA's decision not to scrap the Obama Administration's preemptive veto, also known as the Proposed Determination, for the prospective Pebble Limited Partnership mining project in Bristol Bay, Alaska. It is our view that the process has deviated into improper and irregular territory for having engaged in a repeated, economically damaging back-and-forth as to whether the EPA would exercise a preemptive veto of the project under Section 404(c) of the Clean Water Act. This has already set a harmful precedent which has the potential to undercut the standard National Environmental Policy Act (NEPA) review processes for years to come.

In a future administration, this dangerous precedent could be utilized as a tyrannical tool to restrict entire territories of the United States based on unilateral zoning edicts of the EPA on the basis of "unacceptable adverse" environmental effects – and decided under a paucity of evidence or before a project has even been proposed. It therefore poses a threat to the integrity of our entire project review system while casting the spectre of a double standard over this particular project.

We the undersigned understand and value the dual role EPA has to play in exercising its Congressionally-mandated task of ensuring environmental and ecological integrity right alongside its obligation to ensure strict due process in its regulatory actions. We would also not miss the chance to recognize that you, Administrator Pruitt, are a longtime friend of responsible economic and resource development. In this case, you have taken numerous steps to facilitate a holistic fact-finding process and right wrongs of the past administration which will allow Pebble ample opportunities to propose and defend a mining plan that is consistent with environmental protection of Bristol Bay. That is a world of improvement over the tenure of those who served at EPA prior to you.

It is because we recognize the above points that we raise the below concerns. The EPA's January 26, 2018 decision not to overturn what was widely considered a preemptive veto of the Pebble Limited Partnership mining project by the Obama Administration has sowed tumult for interested companies like Pebble and Northern Dynasty Minerals, for capital markets and for multiple mining stocks and indexes. Northern Dynasty Minerals' stock dropped more than 40% in the five trading days following EPA's announcement, and there is concern that the industry partnership comprising the potential project could fall apart due to this regulatory uncertainty, before a project proposal has even been fully analyzed.

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Bristol Bay/Pebble Mine 2019
FOIAs_Production006

This is surely inconsistent with the intent of our project review processes enshrined in law, and the due process that is accorded to participants thereof. Our system is designed to facilitate the proposal of credible projects and sift the acceptable from the unacceptably adverse. What we have seen in this instance, however, is unpredictable regulatory action imperiling private entities and whole industries before a project has been sufficiently reviewed, a mere few weeks after an actual mine plan was finally allowed to be proposed.

If EPA's actions in this regard were necessary in order for it to execute its statutory mandate of environmental protection, then they would likely represent the proper steps having been taken. The public interest comes first as the mission of our federal agencies, and as Members of Congress we absolutely support that mission. However, it is well-known that the environmental protection of Bristol Bay is not dependent on the withdrawal of the Proposed Determination being suspended. Those conditions are independent of one another because the Pebble Limited Partnership mining project has yet to undergo the rigors of the Environmental Impact Statement (EIS) which requires the analysis of in-depth plans as well as intensive ecological, chemical and geological study.

As such, we respectfully question your premise when you stated during the announcement of the suspension, "Today's action allows EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources." Such an outcome is secured regardless of the suspension and as a consequence of the EIS, insofar as its scoping will encompass concerns surrounding the Bristol Bay Watershed. *That the necessary safeguards are already in place makes the damage that has been done to the interested parties all the more regrettable.*

The effect of suspending this withdrawal of the Proposed Determination is to retain an arbitrary and unnecessary "failsafe" against the Pebble Mine project. But if we believe our NEPA project review process is sufficiently fair and robust so as to constitute federal policy towards environmental review and mineral development, we should abstain from abruptly interjecting options which diverge from it in order to respond to a perceived threat. That law exists to analyze and deal with such a threat on its own, in a fair and comprehensive manner. In the case of its general failure as a protective statute, the proper remedy is legislative rather than agency action.

To our knowledge, there has been no such general failure of NEPA to establish scoping and criteria that ensures environmental integrity. As such, in taking this dramatic and rare step, the burden is on EPA to demonstrate that its mandate of environmental stewardship is substantially unlikely to be fulfilled following the completion of an EIS, such that queuing a disruptive preemptive veto at this stage is a compelling necessity for the public good. With a project only having just been proposed and not fully analyzed, this is simply not possible at this juncture under even the best scientific scrutiny.

The EPA's decision is also at odds with the Administration's stated policy on mineral development. Interior Secretary Ryan Zinke, in conjunction with the President, has made mineral development a top policy priority. In December 2017, the President signed an Executive Order promoting natural resource development to reduce foreign dependence on strategic minerals, including copper, by "increase[ing] in private-sector domestic exploration" and "streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals." Overwhelmingly, the Administration's stance towards mining projects and minerals has been to treat them as issues of economic and national security, because they are.

As such, we have two requests. Firstly, we ask that the Proposed Determination be withdrawn, as was originally planned. Going forward with the withdrawal of the preemptive veto makes a return to the due process track and goes towards repairing the harm caused to interested parties by process uncertainty to date. It retains the protections of a full review process without setting forth a terrible precedent as well as further damaging entities and industry.

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Secondly, we ask that the EPA act in accordance with the outcomes of the normal NEPA process, which requires rigorous and scientific environmental review, before deciding whether or not to let the Pebble Limited Partnership mining project proceed.

We are honored to have the support of the following organizations and individuals that agree with our position and have endorsed this letter: American Exploration & Mining Association, National Mining Association, Women's Mining Coalition, Competitive Enterprise Institute, Americans for Limited Government, Arizona Mining Association, Alaska Miners Association, American Resources Policy Network, Arizona Pork Council, Arizona Rock Products Association, AZ BASS Nation, Bass Federation-AZ, Hibbing Area Chamber of Commerce, Hudbay Rosemont Copper Project, Idaho Mining Association, MiningMinnesota, New Mexico Cattle Growers' Association, New Mexico Wool Growers Inc., Southern Arizona Business Coalition, SRT Outdoors, Sulphur Springs Valley Electric Cooperative, Utah Mining Association, Yavapai Cattle Growers Association, Arizona District 6 Senator Sylvia Allen, Apache County Supervisor Doyel Shamley and Yavapai County Supervisors Thomas Thurman and Rowle Simmons.

Thank you for your thoughtful consideration of our comments. We look forward to your timely response.

Sincerely,

Paul A. Gosar, D.D.S.
Member of Congress

Doug Lamborn
Member of Congress

Andy Biggs
Member of Congress

Rob Bishop
Member of Congress

Lamar Smith
Member of Congress

Bob Gibbs
Member of Congress

Scott DesJarlais
Member of Congress

David B. McKinley, P.E.
Member of Congress

AMERICAN OVERSIGHT

Jeff Duncan
Member of Congress

John Duncan
Member of Congress

Randy Weber
Member of Congress

Alex Mooney
Member of Congress

Scott Perry
Member of Congress

Ted S. Yoho, D.V.M.
Member of Congress

Mark Amodei
Member of Congress

Doug LaMalfa
Member of Congress

AMERICAN OVERSIGHT

Brian Babin
Member of Congress

Roger Marshall M.D
Roger Marshall
Member of Congress

Cc: President of the United States Donald J. Trump

Secretary of the Department of the Interior Ryan Zinke

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: Fri 9/7/2018 12:54:25 AM (UTC)
Subject: Re: Bristol Bay PD

We should probably meet to discuss. We should probably then brief Henry Darwin who is going to be the “decision maker’. Is that your understanding as well?

Sent from my iPhone

> On Sep 6, 2018, at 8:46 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:
>
> FYI, Aaron Szabo called me this evening to say that Francis may want to meet with us next week to discuss status.
>
> Sent from my iPhone

AMERICAN OVERSIGHT

Message

From: Nalven, Heidi [Nalven.Heidi@epa.gov]
Sent: 6/29/2018 12:41:51 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
CC: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: For your review - Bristol Bay, Gosar/Congressional Western Caucus CMS Response

I checked in with Brian Frazer (the acting division director). **Ex. 5 Deliberative Process (DP)** **Ex. 5 Deliberative Process (DP)** The draft response is currently with OW management (I think Lee) **Ex. 5 Deliberative Process (DP)**

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Fotouhi, David
Sent: Wednesday, June 27, 2018 7:12 PM
To: Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: For your review - Bristol Bay, Gosar/Congressional Western Caucus CMS Response

This looks fine to me. Do you know if OW is planning to update it to **Ex. 5 Deliberative Process (DP)**

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi
Sent: Tuesday, June 26, 2018 9:14 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: For your review - Bristol Bay, Gosar/Congressional Western Caucus CMS Response

Hi David,

Hi David – You had expressed an interest in reviewing OW's draft response to the Congressional Western Caucus letter. Attached is OW's latest draft. Brian sent a follow-up message indicating that the program is hoping to get this out quickly.

Thanks,
Heidi

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Frazer, Brian
Sent: Friday, June 22, 2018 3:04 PM

AMERICAN OVERSIGHT

To: Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Bennett, Brittany <bennett.brittany@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: Review: Bristol Bay, Gosar/Congressional Western Caucus CMS Response

Hi Heidi,

Attached, find the final draft Bristol Bay, Gosar/Congressional Western Caucus response letter for David F's review. We have uploaded the letter to CMS, however, it will be on hold until Lee and David's review.

Let us know if there's any questions or concerns.

Thanks.

bf

AMERICAN OVERSIGHT

September 6, 2018

The Honorable Andrew Wheeler
Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Acting Administrator Wheeler,

In 2013, organizations from coast-to-coast called on then-U.S. Environmental Protection Agency (EPA) Administrator Gina McCarthy to reject an unprecedented decision on Pebble Mine and warned that a preemptive veto, "would have a dramatic chilling effect on investment in America." Unfortunately, this call went unheeded as the Obama EPA promulgated the "Proposed Determination." This action was essentially a preemptive veto on the development of a copper mine in Southwest Alaska (AKA Pebble Mine) before the project had a chance to go through the permitting process. The proposed veto was based on incomplete, shoddy analysis and agency collusion with liberal environmental activists and other project opponents.

The conduct of the EPA over the last forty years confirms that the issuance of a proposed preemptive veto is unprecedented. EPA has only exercised its authority under Section 404(c) thirteen times. In each previous instance, EPA invoked Section 404(c) only after receipt of a permit application describing the scope and details of the project proposed, the anticipated environmental impact, and the techniques employed to mitigate, which is normal for all applicants under the well-established NEPA process.

One does not have to be a mining proponent to oppose the unprecedented action taken by the Obama EPA with their proposed preemptive veto of the Pebble Mine—before it even submitted a permit application. The harmful effects of continuing with EPA's veto process go well beyond the mining industry. The need to secure 404 permits touches every state and all areas of our economy.

In late June, former Administrator Pruitt correctly recognized the dangerous precedent set by the Obama EPA and issued a memorandum instructing the agency to update the regulations governing EPA's role in permitting and its veto authority under section 404 of the Clean Water Act (CWA). In the news release on June 27, 2018, former Administrator Pruitt instructed the EPA to ensure the agency is "protecting public health and the environment in a way that is fair and consistent with due process. We must ensure that EPA exercises its authority under the Clean Water Act in a careful, predictable, and prudent manner."

We applaud this action and encourage you to not back down to those who have asked you to withdraw the memo and the directive for the EPA to update the 404c regulations and guidelines. Further, with the proposed regulatory reform, the EPA has an opportunity to establish a lasting precedent for the federal permitting process that protects "human health and the environment while improving predictability and regulatory certainty," per the EPA's news release. The Agency can make sure that this message is received clearly by communicating that these rules will apply to all current and proposed projects, not just future permit applications.

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Unfortunately, the Obama Administration's proposed preemptive veto is still in place. While the developers of the Pebble Mine have been allowed to submit the permit application, the U.S. Army Corps of Engineers is still precluded from issuing any permits. So long as the preemptive veto on Pebble Mine remains in place, there remains a dangerous precedent for future administrations to undermine a fair, traditional, and rational permitting process.

We firmly believe that the continuing existence of the proposed preemptive veto on Pebble Mine undermines the Pruitt Memo and the necessary regulatory reform it seeks to establish.

You have the ability to right the wrongs of the Obama EPA and remove the precedent of a preemptive 404(c) veto entirely. We urge you to rescind the proposed "veto" (proposed determination) for Southwest Alaska as soon as possible. This action would be an important step to reestablishing a fair and due process at the EPA, which Pruitt called for in his memo.

We applaud the President's proposal to eliminate the EPA's statutory authority to issue a veto, which is part of his infrastructure plan. Implementing regulations based on Pruitt's memo and taking the steps outlined in this letter is consistent with Trump's intentions and would make it even more difficult for future administrators to use the 404c provision as a tool for 'federal zoning.'

We appreciate your leadership and look forward to continued EPA action to reduce the burdensome regulations implemented by the Obama EPA.

Sincerely,

Grover Norquist
President
Americans for Tax Reform

Dick Patten
President
American Business Defense Council

Rick Manning
President
Americans for Limited Government

Brent Gardner
Chief Government Affairs Officer
Americans for Prosperity

Jennifer Fielder
CEO
American Lands Council

Myron Ebell
Director, Center for Energy & the Environment
Competitive Enterprise Institute

James Edwards
Executive Director
Conservatives for Property Rights

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Ron Kliewer
President
Public Lands for the People

Derrick Hollie
President
Reaching America

Jim Martin
Chairman
60 Plus Association

Amy Oliver Cooke
Executive Vice President
Director, Energy and Environmental Policy
Independence Institute (Colorado)

Sal J. Nuzzo
Vice President of Policy
The James Madison Institute (Florida)

Paul Gessing
President
Rio Grande Foundation (New Mexico)

John M. Tidwell
Oklahoma State Director
Americans For Prosperity Oklahoma Chapter

Brett Healy
President
John K. MacIver Institute for Public Policy (Wisconsin)

AMERICAN OVERSIGHT

To: Mike Palicz[mpalicz@atr.org]
Cc: Abboud, Michael[abboud.michael@epa.gov]
From: Bennett, Tate[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]
Sent: Thur 9/6/2018 7:37:04 PM (UTC)
Subject: Re: Conservative letter on Section 404(c)

Hey Mike-

I'll make sure this gets to the right folks. Will let you know when we have more of an update.

Tate

On Sep 6, 2018, at 2:35 PM, Mike Palicz <mpalicz@atr.org> wrote:

> Tate and Mike,
>
> I hope you are both doing well. Attached please find a coalition letter from 15 conservative groups urging Acting Administrator Wheeler to rescind the proposed veto ("proposed determination") on Pebble Mine in Southwest Alaska. While we applaud the June memo issued by former Administrator Pruitt, we believe the continuing existence of the proposed veto on Pebble Mine still sets a precedent for future administrations and undermines the reform intended in Pruitt's memo.
>
> Please let me know if I can provide any additional information or answer any questions.
>
> Best,
>
> **Mike Palicz**
> *Federal Affairs Manager*
> Americans for Tax Reform
>
> 722 12th Street NW | Washington, DC 20005
> 203-417-9970 | www.atr.org | mpalicz@atr.org
>
> <Conservative Letter on Section 404(c).pdf>

AMERICAN OVERSIGHT

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 5/4/2018 12:09:39 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: RE: Heads Up on Pebble Letter

Ex. 5 Deliberative Process (DP) ?

From: Fotouhi, David
Sent: Friday, May 4, 2018 7:38 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Fwd: Heads Up on Pebble Letter

Sent from my iPhone

Begin forwarded message:

> **From:** "Bennett, Tate" <Bennett.Tate@epa.gov>
> **Date:** May 3, 2018 at 3:25:23 PM EDT
> **To:** "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>
> **Subject: Fwd: Heads Up on Pebble Letter**

Begin forwarded message:

> **From:** "Small, Jeff" <Jeff.Small@mail.house.gov>
> **Date:** May 3, 2018 at 9:42:21 AM EDT
> **To:** "'ringel.aaron@epa.gov'" <ringel.aaron@epa.gov>, "'Rodrick.Christian@epa.gov'" <Rodrick.Christian@epa.gov>, "'Bennett.Tate@epa.gov'" <Bennett.Tate@epa.gov>, "'palich.christian@epa.gov'" <palich.christian@epa.gov>, "'konkus.john@epa.gov'" <konkus.john@epa.gov>, "'Gunasekara.mandy@epa.gov'" <Gunasekara.mandy@epa.gov>, "'Bowman.Liz@epa.gov'" <Bowman.Liz@epa.gov>
> **Subject: Heads Up on Pebble Letter**
>
> Hope you all are having a good week.
>
> Wanted to give you a heads up on the attached letter regarding the Pebble Project that that will be going out this afternoon.
>
> **Jeff Small**
> *Executive Director | Congressional Western Caucus*
> *Senior Advisor | Congressman Paul A. Gosar, D.D.S.*
> 2057 Rayburn HOB | Washington, DC 20515
> (202) 225-2315 main
> jeff.small@mail.house.gov

AMERICAN OVERSIGHT

Message

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 5/4/2018 11:52:27 AM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: RE: Heads Up on Pebble Letter

Interesting. Looks like the mining groups need to justify their existence.

From: Fotouhi, David
Sent: Friday, May 4, 2018 7:38 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: Fwd: Heads Up on Pebble Letter

Sent from my iPhone

Begin forwarded message:

> **From:** "Bennett, Tate" <Bennett.Tate@epa.gov>
> **Date:** May 3, 2018 at 3:25:23 PM EDT
> **To:** "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>
> **Subject: Fwd: Heads Up on Pebble Letter**

Begin forwarded message:

> **From:** "Small, Jeff" <Jeff.Small@mail.house.gov>
> **Date:** May 3, 2018 at 9:42:21 AM EDT
> **To:** "'ringel.aaron@epa.gov'" <ringel.aaron@epa.gov>, "'Rodrick.Christian@epa.gov'" <Rodrick.Christian@epa.gov>, "'Bennett.Tate@epa.gov'" <Bennett.Tate@epa.gov>, "'palich.christian@epa.gov'" <palich.christian@epa.gov>, "'konkus.john@epa.gov'" <konkus.john@epa.gov>, "'Gunasekara.mandy@epa.gov'" <Gunasekara.mandy@epa.gov>, "'Bowman.Liz@epa.gov'" <Bowman.Liz@epa.gov>
> **Subject: Heads Up on Pebble Letter**
>
> Hope you all are having a good week.
>
> Wanted to give you a heads up on the attached letter regarding the Pebble Project that that will be going out this afternoon.
>
> **Jeff Small**
> *Executive Director | Congressional Western Caucus*
> *Senior Advisor | Congressman Paul A. Gosar, D.D.S.*
> 2057 Rayburn HOB | Washington, DC 20515
> (202) 225-2315 main
> jeff.small@mail.house.gov

AMERICAN OVERSIGHT

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 6/13/2018 6:32:16 PM
To: Ford, Hayley [ford.hayley@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: Draft talking points

Importance: High

Hayley, let us know if you have any questions.

DELIBERATIVE—DO NOT RELEASE

Draft talking points on CWA 404(c)

- Ex. 5 Deliberative Process (DP)

Draft talking points on Bristol Bay/Pebble Mine

- Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 6/13/2018 6:05:47 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: RE: Draft talking points

Thanks

From: Fotouhi, David
Sent: Wednesday, June 13, 2018 1:56 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Draft talking points
Importance: High

DELIBERATIVE—DO NOT RELEASE

Draft talking points on CWA 404(c)

-
-
- **Ex. 5 Deliberative Process (DP)**

Draft talking points on Bristol Bay/Pebble Mine

-
-
- **Ex. 5 Deliberative Process (DP)**
-

David Fotouhi

AMERICAN OVERSIGHT

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Bennett, Tate[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]
Sent: Thur 5/3/2018 7:25:23 PM (UTC)
Subject: Fwd: Heads Up on Pebble Letter
image001.png
ATT00001.htm
image002.png
ATT00002.htm
image003.png
ATT00003.htm
Draft Pebble Letter and DC.pdf
ATT00004.htm

Begin forwarded message:

From: "Small, Jeff" <Jeff.Small@mail.house.gov>
Date: May 3, 2018 at 9:42:21 AM EDT
To: "'ringel.aaron@epa.gov'" <ringel.aaron@epa.gov>, "'Rodrick.Christian@epa.gov'" <Rodrick.Christian@epa.gov>, "'Bennett.Tate@epa.gov'" <Bennett.Tate@epa.gov>, "'palich.christian@epa.gov'" <palich.christian@epa.gov>, "'konkus.john@epa.gov'" <konkus.john@epa.gov>, "'Gunasekara.mandy@epa.gov'" <Gunasekara.mandy@epa.gov>, "'Bowman.Liz@epa.gov'" <Bowman.Liz@epa.gov>
Subject: Heads Up on Pebble Letter

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Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

AMERICAN OVERSIGHT

Request that EPA Rescind Its Unprecedented Veto of Pebble Mine

Allow Pebble to go through the standard NEPA and EIS procedures

Deadline: COB Wednesday, May 2, 2018

Current signers (18): Amodei, Babin, Biggs, Rob Bishop, DesJarlais, Jeff Duncan, John Duncan, Gibbs, Gosar, LaMalfa, Lamborn, Marshall, McKinley, Mooney, Perry, Lamar Smith, Weber, Yoho

Endorsed by: American Exploration & Mining Association, National Mining Association, Women's Mining Coalition, Competitive Enterprise Institute, Americans for Limited Government, Arizona Mining Association, Alaska Miners Association, American Resources Policy Network, Arizona Pork Council, Arizona Rock Products Association, AZ BASS Nation, Bass Federation-AZ, Hibbing Area Chamber of Commerce, Hudbay Rosemont Copper Project, Idaho Mining Association, MiningMinnesota, New Mexico Cattle Growers' Association, New Mexico Wool Growers Inc., Southern Arizona Business Coalition, SRT Outdoors, Sulphur Springs Valley Electric Cooperative, Utah Mining Association, Yavapai Cattle Growers Association, Arizona District 6 Senator Sylvia Allen, Apache County Supervisor Doyel Shamley and Yavapai County Supervisors Thomas Thurman and Rowle Simmons

Dear Colleague:

Please join us in sending a letter to EPA Administrator Pruitt encouraging a fair process consistent with all environmental laws for review of the Pebble Mine project in Bristol Bay, Alaska and rejecting preemptive vetoes not based on science. Pebble encompasses one of the largest undeveloped deposits of copper and gold resources in the world, containing an estimated 57 billion pounds of copper and 70 million ounces of gold resources.

In particular, the letter responds to the EPA's recently-announced decision to abruptly change course and opt not to withdraw the Obama Administration's preemptive veto of the project, contrary to Administrator Pruitt's prior stated commitment to do so.

The preemptive veto, initiated under Section 404(c) of the Clean Water Act, acts as an EPA "failsafe" set outside of the normal Army Corps of Engineers-facilitated NEPA process, along with its requirement of an Environmental Impact Statement (EIS). The NEPA EIS takes a full environmental, ecological and chemical inventory of the scope and likely effects of a project as proposed. NEPA EIS's are rigorous and comprehensive, and the eventual EIS for Pebble Mine will be able to accurately determine whether it poses adverse risks to the environment and habitat of Bristol Bay or not.

Rather than allow the EIS to proceed as normal for Pebble Mine, the EPA's actions set a damaging precedent wherein projects that have not enjoyed the scientific and other study required by law can be preempted and shut down by EPA. These actions are contrary to the spirit of our environmental protection laws, to due process, and to basic fairness.

For example, in the five trading days following the recent EPA decision, Pebble's parent company Northern Dynasty Minerals saw its stock fall 40%. This is the predictable market reaction to uncertainty and the possibility that the EPA is interested in potentially exercising a power a unilateral veto of a mining project – and further, it is an action that will wreak havoc in capital markets supporting the mining industry if regulatory certainty is not restored.

As such, this letter requests that Administrator Pruitt opt to scrap the preemptive veto in order to restore due process, fairness and regulatory stability surrounding mining projects in the United States. This issue only grows in importance in light of President Trump and Department of Interior Secretary Ryan Zinke having made clear our overriding need to reduce reliance of foreign importation of critical and strategic minerals as matters of national and economic security. At a time when domestic mining is critically important, providing regulatory certainty by following established processes is of utmost concern.

The full letter is below. To sign on, please email Tanner Hanson at (tanner.hanson@mail.house.gov).

AMERICAN OVERSIGHT

Sincerely,

Paul A. Gosar
Member of Congress

Andy Biggs
Member of Congress

Doug Lamborn
Member of Congress

May _____, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Mail Code: 1101A
Washington, D.C. 20460

Dear Administrator Pruitt,

We write to express our concerns with regards to the EPA's decision not to scrap the Obama Administration's preemptive veto, also known as the Proposed Determination, for the prospective Pebble Limited Partnership mining project in Bristol Bay, Alaska. It is our view that the process has deviated into improper and irregular territory for having engaged in a repeated, economically damaging back-and-forth as to whether the EPA would exercise a preemptive veto of the project under Section 404(c) of the Clean Water Act. This has already set a harmful precedent which has the potential to undercut the standard National Environmental Policy Act (NEPA) review processes for years to come. In a future administration, this dangerous precedent could be utilized as a tyrannical tool to restrict entire territories of the United States based on unilateral zoning edicts of the EPA on the basis of "unacceptable adverse" environmental effects – and decided under a paucity of evidence or before a project has even been proposed. It therefore poses a threat to the integrity of our entire project review system while casting the spectre of a double standard over this particular project.

We the undersigned understand and value the dual role EPA has to play in exercising its Congressionally-mandated task of ensuring environmental and ecological integrity right alongside its obligation to ensure strict due process in its regulatory actions. We would also not miss the chance to recognize that you, Administrator Pruitt, are a longtime friend of responsible economic and resource development. In this case, you have taken numerous steps to facilitate a holistic fact-finding process and right wrongs of the past administration which will allow Pebble ample opportunities to propose and defend a mining plan that is consistent with environmental protection of Bristol Bay. That is a world of improvement over the tenure of those who served at EPA prior to you.

It is because we recognize the above points that we raise the below concerns. The EPA's January 26, 2017 decision not to overturn what was widely considered a preemptive veto of the Pebble Limited Partnership mining project by the Obama Administration has sowed tumult for interested companies like Pebble and Northern Dynasty Minerals, for capital markets and for multiple mining stocks and indexes. Northern Dynasty Minerals' stock dropped more than 40% in the five trading days following EPA's announcement, and there is concern that the industry partnership comprising the potential project could fall apart due to this regulatory uncertainty, before a project proposal has even been fully analyzed. This is surely inconsistent with the intent of our project review processes enshrined in law, and the due process that is accorded to participants thereof. Our system is designed to facilitate the proposal of credible projects and sift the acceptable from the unacceptably adverse. What we have seen in this instance, however, is unpredictable regulatory action imperiling private entities and whole industries before a project has been sufficiently reviewed, a mere few weeks after an actual mine plan was finally allowed to be proposed.

If EPA's actions in this regard were necessary in order for it to execute its statutory mandate of environmental protection, then they would likely represent the proper steps having been taken. The public interest comes first as the mission of our federal agencies, and as Members of Congress we absolutely support that mission. However, it is well-known that the environmental protection of Bristol Bay is not dependent on the withdrawal of the Proposed Determination being suspended. Those conditions are independent of one another because the Pebble Limited Partnership mining project has

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yet to undergo the rigors of the Environmental Impact Statement (EIS) which requires the analysis of in-depth plans as well as intensive ecological, chemical and geological study.

As such, we respectfully question your premise when you stated during the announcement of the suspension, "Today's action allows EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources." Such an outcome is secured regardless of the suspension and as a consequence of the EIS, insofar as its scoping will encompass concerns surrounding the Bristol Bay Watershed. *That the necessary safeguards are already in place makes the damage that has been done to the interested parties all the more regrettable*.

The effect of suspending this withdrawal of the Proposed Determination is to retain an arbitrary and unnecessary "failsafe" against the Pebble Mine project. But if we believe our NEPA project review process is sufficiently fair and robust so as to constitute federal policy towards environmental review and mineral development, we should abstain from abruptly interjecting options which diverge from it in order to respond to a perceived threat. That law exists to analyze and deal with such a threat on its own, in a fair and comprehensive manner. In the case of its general failure as a protective statute, the proper remedy is legislative rather than agency action.

To our knowledge, there has been no such general failure of NEPA to establish scoping and criteria that ensures environmental integrity. As such, in taking this dramatic and rare step, the burden is on EPA to demonstrate that its mandate of environmental stewardship is substantially unlikely to be fulfilled following the completion of an EIS, such that queuing a disruptive preemptive veto at this stage is a compelling necessity for the public good. With a project only having just been proposed and not fully analyzed, this is simply not possible at this juncture under even the best scientific scrutiny.

The EPA's decision is also at odds with the Administration's stated policy on mineral development. Interior Secretary Ryan Zinke, in conjunction with the President, has made mineral development a top policy priority. In December 2017, the President signed an Executive Order promoting natural resource development to reduce foreign dependence on strategic minerals, including copper, by "increase[ing] in private-sector domestic exploration" and "streamlining leasing and permitting processes to expedite exploration, production, processing, reprocessing, recycling, and domestic refining of critical minerals." Overwhelmingly, the Administration's stance towards mining projects and minerals has been to treat them as issues of economic and national security, because they are.

As such, we have two requests. Firstly, we ask that the Proposed Determination be withdrawn, as was originally planned. Going forward with the withdrawal of the preemptive veto makes a return to the due process track and goes towards repairing the harm caused to interested parties by process uncertainty to date. It retains the protections of a full review process without setting forth a terrible precedent as well as further damaging entities and industry.

Secondly, we ask that the EPA act in accordance with the outcomes of the normal NEPA process, which requires rigorous and scientific environmental review, before deciding whether or not to let the Pebble Limited Partnership mining project proceed.

We are honored to have the support of the following organizations and individuals that agree with our position and have endorsed this letter: American Exploration & Mining Association, National Mining Association, Women's Mining Coalition, Competitive Enterprise Institute, Americans for Limited Government, Arizona Mining Association, Alaska Miners Association, American Resources Policy Network, Arizona Pork Council, Arizona Rock Products Association, AZ BASS Nation, Bass Federation-AZ, Hibbing Area Chamber of Commerce, Hudbay Rosemont Copper Project, Idaho Mining Association, MiningMinnesota, New Mexico Cattle Growers' Association, New Mexico Wool Growers Inc., Southern Arizona Business Coalition, SRT Outdoors, Sulphur Springs Valley Electric Cooperative, Utah Mining Association, Yavapai Cattle Growers Association, Arizona District 6 Senator Sylvia Allen, Apache County Supervisor Doyel Shamley and Yavapai County Supervisors Thomas Thurman and Rowle Simmons.

Thank you for your thoughtful consideration of our comments.

Sincerely,

Cc: Secretary of the Department of the Interior Ryan Zinke

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]
From: Drinkard, Andrea[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=808A6B7B65BF447F93DAD2F510FEAF61-ADRINKAR]
Sent: Fri 8/17/2018 9:02:33 PM (UTC)
Subject: Re: EPA Administrator Scott Pruitt Suspends Withdrawal of Proposed Determination in Bristol Bay Watershed, Will Solicit Additional Comments | U.S. EPA News Releases | US EPA

Yep. I sent it along. Thanks and safe travels!

On Aug 17, 2018, at 5:01 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

> Andrea
> Can you make sure it gets done?
>
> Lee
>
> Sent from my iPhone
>
> On Aug 16, 2018, at 6:49 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:
>
> > Good with me. Thanks
> >
> > Sent from my iPhone
> >
> > On Aug 16, 2018, at 12:11 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:
> >
> > > Andrea
> > > I am fine with this response if David is.
> > > Lee
> > >
> > > Sent from my iPhone
> > >
> > > On Aug 16, 2018, at 5:42 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:
> > >
> > > > Hi David,
> > > >
> > > > Are you good with this general response:

Ex. 5 Deliberative Process (DP)

> > > > Begin forwarded message:

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From: "Lynn, Tricia" <lynn.tricia@epa.gov>
Date: August 15, 2018 at 4:22:53 PM EDT
To: "Holsman, Marianne" <Holsman.Marianne@epa.gov>, "Fuld, John" <Fuld.John@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>
Cc: "MacIntyre, Mark" <Macintyre.Mark@epa.gov>
Subject: FW: EPA Administrator Scott Pruitt Suspends Withdrawal of Proposed Determination in Bristol Bay Watershed, Will Solicit Additional Comments | U.S. EPA News Releases | US EPA

Hi all—

Not sure if this is best for the region or OW, but I'm forwarding to both per Nancy G.

Please let me know how we'll proceed.

Thanks!

--Tricia

From: paulklebo[**Ex. 6 Personal Privacy (PP)**
Sent: Wednesday, August 15, 2018 4:08 PM
To: Press <Press@epa.gov>
Subject: EPA Administrator Scott Pruitt Suspends Withdrawal of Proposed Determination in Bristol Bay Watershed, Will Solicit Additional Comments | U.S. EPA News Releases | US EPA

Good afternoon,

I am writing to request an update on the status of the proposed determination in Bristol Bay Watershed. Per the attached, the EPA is planning to solicit additional comments from the public. When will the public comment period take place, or was the ACoE public scoping period comment period sufficient?

Also, given the new mine plan being proposed by Pebble, is the proposed determination still based on the BBWA or is it now based on the new mine plan?

Thank you for any update you can provide.

Paul Lebo
Ex. 6 Personal Privacy (PP)

https://www.epa.gov/newsreleases/epa-administrator-scott-pruitt-suspends-withdrawal-proposed-determination-bristol-bay

News Releases

<iframe

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src="https://www.googletagmanager.com/ns.html?id=GTM-L8ZB" height="0" width="0" style="display:none;visibility:hidden"></iframe>
An official website of the United States government.

United States Environmental Protection Agency

Contact Us

EPA Administrator Scott Pruitt Suspends Withdrawal of Proposed Determination in Bristol Bay Watershed, Will Solicit Additional Comments

01/26/2018

Contact Information:
(press@epa.gov)

WASHINGTON (January 26, 2018) – Today, U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt is following through on his promise to restore the rule of law and process to the previous Administration's action to restrict mining in Bristol Bay, Alaska.

As a result of Administrator Pruitt's actions last summer, proponents of mining in the region were allowed to apply for a permit with the U.S. Army Corps of Engineers. Today, after hearing directly from stakeholders and the people of Alaska, EPA is suspending its process to withdraw those proposed restrictions, leaving them in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources.

"We have restored process, reviewed comments, and heard from a variety of stakeholders on whether to withdraw the proposed restrictions in the Bristol Bay watershed," **Administrator Scott**

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Pruitt said. “Based on that review, it is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there. Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection. Today’s action allows EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources.”

This decision neither deters nor derails the application process of Pebble Limited Partnership’s proposed project. The project proponents continue to enjoy the protection of due process and the right to proceed. However, their permit application must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable.

EPA intends to solicit additional public comment on the impact of the mining application on the existing proposed determination to better inform that analysis.

Background

In 2014, the Obama Administration issued what was widely considered a preemptive veto of the Pebble Limited Partnership mining project. This effectively brought the mine’s application process and, more importantly, due process to a halt. Litigation resulted and continued into this Administration.

In May of 2017, Administrator Pruitt took the first step to rescind this due process denial and allow the Pebble mine proponents to proceed and progress through the process. EPA received over one million comments from interested stakeholders. Administrator Pruitt’s action allowed the litigation to be resolved and the proponent’s application was allowed to finally move forward. That application is proceeding through the Army Corps’s permitting process.

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Today's action is important for several reasons. First, EPA has serious concerns about the impacts of mining activity in the Bristol Bay Watershed. From public comments to community meetings, stakeholders stressed the importance of balancing a singular mine venture with the risk to one of the world's largest commercial fisheries. Second, for EPA not to express an environmental position at this stage would be disingenuous.

This action demonstrates the Agency's commitment to both the rule of law and process, and upholding the EPA's core mission of environmental stewardship.

For more information and to read a copy of today's announcement in a pre-publication Federal Register Notice, visit: https://www.epa.gov/bristolbay.

Sent from my iPhone

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To: Fotouhi, David[Fotouhi.David@epa.gov]
From: Schwab, Justin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: Thur 6/14/2018 6:17:58 PM (UTC)
Subject: FW: Alaska docs from reg review
EDIT DF edits to Pebble Project Scoping 060518 draft.docx

From: Schwab, Justin
Sent: Thursday, June 14, 2018 2:18 PM
To: Hoppe, Allison <hoppe.allison@epa.gov>
Subject: RE: Alaska docs from reg review

I've done a redline/comments on the P.

From: Hoppe, Allison
Sent: Wednesday, June 13, 2018 4:28 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Alaska docs from reg review

Justin,

These are the two Alaska documents we discussed at the end of reg review today. No action is required on your part on these at this time, just sharing for awareness.

Thanks,

Allison Hoppe
Attorney Advisor
American Indian & Alaska Native Special Emphasis Program Manager
Cross-Cutting Issues Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1912

I am an EPA LGBTQ+ Ally. Learn more and take the pledge here.
Pronouns: She/Her/Hers

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Message

From: Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]
Sent: 3/12/2018 10:25:09 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
CC: Goodin, John [Goodin.John@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Peck, Gregory [Peck.Gregory@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: Re: SEPW QFR

Got it - thanks

On Mar 12, 2018, at 6:24 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

> Sven,
>
> I would modify it as follows:
>
> **Ex. 5 Deliberative Process (DP)**
>
> I would ask that OGC review this response as well.
>
> Regards,
> Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3219 WJCE
Washington, DC 20460
Phone: 202-564-5700
Forsgren.Lee@epa.gov

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From: Kaiser, Sven-Erik
Sent: Monday, March 12, 2018 6:01 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>
Subject: Re: SEPW QFR

Lee- Are you okay with Greg Peck's draft response (in italics below)? Thanks,
Sven

On Mar 12, 2018, at 5:18 PM, Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov> wrote:

> Lee, see Gregory Peck's draft below.
>
> **From:** Peck, Gregory
> **Sent:** Monday, March 12, 2018 2:37 PM
> **To:** Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
> **Subject:** RE: SEPW QFR
>
> How about something like this?
>
> ***107.*** <!--[if !supportLists]--><!--[endif]--> ***OW:*** I appreciated your recent announcement that that you have decided not to abandon proposed EPA oversight of the massive Pebble Mine, leaving restrictions in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources. Given EPA's role in this process, would you say that EPA can contribute valuable feedback to the development of projects, be they energy, mining, or transportation? Given EPA's valuable feedback, would you object to efforts to roll back EPA's responsibilities to provide input on infrastructure projects?

Ex. 5 Deliberative Process (DP)

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Kaitlyn Shimmin
Special Assistant Congressional and Intergovernmental Affairs
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
O: (202) 564-4108
C: (Ex. 6 Personal Privacy (PP)
Shimmin.Kaitlyn@epa.gov

From: Forsgren, Lee
Sent: Monday, March 12, 2018 5:17 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: SEPW QFR

Sven-Erik,

You said you have a proposed response for this or do I need to do/have one done?

Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3219 WJCE
Washington, DC 20460
Phone: 202-564-5700
Forsgren.Lee@epa.gov

From: Kaiser, Sven-Erik
Sent: Monday, March 12, 2018 2:14 PM
To: Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
Subject: SEPW QFR

OW Team – Thanks for getting in the SEPW QFR responses. Van Hollen #107 on infrastructure projects was originally assigned to OGC/OPA and it's been asked for OW to take a crack at it. Please take a look and see if you can draft a response. Apologies for the late notice. Please let me know if any questions.

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Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753 (o)
Ex. 6 Personal Privacy (PP) (C)

107. <!--[if !supportLists]--><!--[endif]--> ***OW:*** I appreciated your recent announcement that that you have decided not to abandon proposed EPA oversight of the massive Pebble Mine, leaving restrictions in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources. Given EPA's role in this process, would you say that EPA can contribute valuable feedback to the development of projects, be they energy, mining, or transportation? Given EPA's valuable feedback, would you object to efforts to roll back EPA's responsibilities to provide input on infrastructure projects?

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To: rmatlock@atr.org[rmatlock@atr.org]; Patrick Gleason[pgleason@atr.org]; pblair@atr.org[pblair@atr.org]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]
From: Bennett, Tate[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]
Sent: Mon 3/12/2018 7:50:52 PM (UTC)
Subject: Pebble Press Release

https://www.epa.gov/newsreleases/epa-administrator-scott-pruitt-suspends-withdrawal-proposed-determination-bristol-bay

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To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
Cc: Bennett, Tate[Bennett.Tate@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Hewitt, James[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=41B19DD598D340BB8032923D902D4BD1-HEWITT, JAM]
Sent: Tue 7/3/2018 5:50:55 PM (UTC)
Subject: FW: Off-the-record ...

Matt, are you in today? Kim Strassel is looking to write on this soon but would like to talk to someone. I understand David is out today.

From: Kim Strassel [mailto:kim.strassel@wsj.com]
Sent: Tuesday, July 3, 2018 1:20 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>
Subject: Re: Off-the-record ...

James,
I'm back from vacation and am going to write about this. But i'd like to talk to someone there about the Pebble portion of it. Could I get someone on the phone today? (I sent this to Jahan, but got and out-of-office notice). Thanks! Kim

On Mon, Jun 25, 2018 at 11:10 AM Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:
Kim –

Pruitt will be signing this today and we will be announcing it tomorrow. Would you like to break it first tonight? If that answer is yes, I will get you the official copy/text once it's signed.

MEMORANDUM

SUBJECT: Updating EPA's Regulations Implementing Clean Water Act Section 404(c)
FROM: E. Scott Pruitt, Administrator
TO: Distribution [AA for Water, General Counsel, Regional Administrators]

It is essential that the Environmental Protection Agency adhere to its core mission of protecting human health and the environment in a manner that is fully considered as well as consistent with the Agency's authority. When EPA uses its authority "preemptively" and without the benefit of the fully developed factual record or attempts to reimagine its authority in ways that diverge from statutory text or congressional intent, it diverts its attention from this core mission and engages in decision-making without a full understanding of the impacts of those decisions. To address this concern, at every opportunity I have directed the Agency to ensure predictability and regulatory certainty and take actions based upon a comprehensive understanding of the facts. These are the hallmarks of the proper exercise of administrative authority and due process under the law.

Today, I am directing the Office of Water to take another step toward returning the Agency to its core mission and providing regulatory certainty by **developing a proposal to change the regulations governing EPA's exercise of its authority under Clean Water Act section 404(c), which allows EPA to veto the issuance of permits by the U.S. Army Corps of Engineers ("Corps") or an approved State to discharge dredged or fill material at specified disposal sites**. These regulations were last revised nearly 40 years ago—at a time in our history when environmental safeguards and analytical methods were far less-developed than today. EPA's regulations should reflect today's permitting process and modern-day methods and protections, including the robust existing processes under the National Environmental Policy Act that already require federal agencies to consider the environmental and related social and economic effects of their proposed actions while providing opportunities for public review and comment on those evaluations. Any new regulations should seek to address significant concerns surrounding EPA's prior use of its veto authority before a permit application has been filed or after a permit has been issued. This long-overdue update to the regulations has the promise of increasing certainty for landowners, investors, businesses, and entrepreneurs to make investment decisions while preserving EPA's authority to restrict discharges of dredge or fill material that will have an unacceptable adverse effect on water supplies, recreation, fisheries, and wildlife.

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Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into waters of the United States by assigning differing roles to the Administrator and the Secretary of the Army. Section 404(a) empowers the Secretary of the Army, acting through the Army Corps of Engineers, to issue permits allowing for discharge of dredged or fill material at "specified disposal sites." States may assume administration of this program, as Michigan and New Jersey have done. Section 404(b) provides that the Corps or State shall specify each disposal site for each permit "subject to subsection (c)." EPA has developed guidelines for this process. Section 404(c) provides EPA with so-called veto authority. Specifically, section 404(c) authorizes the Administrator "to prohibit the specification (including withdrawal of the specification) of any defined area as a disposal site" as well as to "deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site . . . whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas."

In 1979—seven years after Congress enacted section 404—EPA promulgated regulations that established procedures for exercising authority under section 404(c). *See* 44 FR 58076 (Oct. 9, 1979). The regulations establish defined steps with specific associated criteria: EPA's Regional Administrators are given responsibility for initiating the 404(c) process, issuing a proposed determination, and preparing and transmitting to EPA Headquarters a recommended determination to prohibit, withdraw, deny, or restrict the specification of a site as a disposal site. The Administrator, upon receipt of a recommended determination and after consultation with the Corps or the State, has the authority to issue a final determination to affirm, modify, or rescind the recommendation determination. **EPA has issued 13 final determinations since 1972 at various stages in the permitting process, including two instances where the action extended to areas for which a permit application was not pending and other instances after a permit had been issued.**[1]

EPA has asserted since 1979 that its "section 404(c) authority may be exercised before a permit is applied for, while an application is pending, or after a permit has been issued." 44 FR at 58076; *see also* 40 C.F.R. § 231.1(c). Commenters at the time the regulations were proposed opposed the use of EPA's authority before a permit application had been received or after a permit had been issued by the Corps or State. 44 FR at 58077. EPA responded to concerns about the practical application of pre-permit use of 404(c) by noting that this approach will facilitate planning by developers and industry and "eliminate frustrating situations in which someone spends time and money developing a project for an inappropriate site and learns at an advanced stage that he must start over." *Id.* EPA also stated that while "the statute on its face clearly allows EPA to act after the Corps issued a permit," EPA "recognize[d] that where possible it is much preferable to exercise this authority before the Corps or state has issued a permit, and before the permit holder has begun operations." *Id.*

During the prior Administration, EPA proposed to restrict discharges of dredge and fill material associated with mining activity near Bristol Bay, Alaska, which drew significant public scrutiny. Before advocates of mining of the Pebble Deposit submitted a permit application to the Corps, EPA Region 10 undertook an ecological risk assessment of three mining scenarios of different sizes based on information submitted to the Securities & Exchange Commission. Region 10 then issued a Proposed Determination to restrict the discharge of dredged or fill material from mining of the Pebble Deposit for "the potential disposal site [defined as] the waters within the mine claims held by [Northern Dynasty Minerals] subsidiaries, including PLP [Pebble Limited Partnership], that fall within the [South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek] watersheds." PLP subsequently obtained a preliminary injunction that halted the section 404(c) process before Region 10 could determine whether to prepare a recommended determination to transmit to EPA Headquarters. In December 2017, PLP submitted a permit application to the Corps. Earlier this year, EPA suspended its proposed withdrawal of the proposed determination; EPA also committed not to send a recommended determination from Region 10 to EPA Headquarters until after a final Environmental Impact Statement ("EIS") has been completed by the Corps, so long as that EIS is completed by May 2021. I believe that it is critical for the Agency to participate in the EIS process and review the final EIS in detail before determining whether to proceed with the section 404(c) process in this case.

* * *

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EPA's historical interpretation of its statutory authority and its current regulatory framework applies the same procedures notwithstanding whether a permit application has been filed or a permit issued. **I am concerned that the mere potential of EPA's use of its section 404(c) authority before or after the permitting process could influence investment decisions and chill economic growth by short-circuiting the permitting process. Although the Corps can process a permit application and conduct a NEPA analysis while a section 404(c) action is ongoing, it cannot issue a permit. Moreover, the short timeframes in EPA's existing regulations allow the Administrator to issue a final determination restricting the specification of a site as a disposal site within just a few months' time from the start of the process. I am also concerned that under current regulations, EPA could issue a final determination without the benefit of full information about the project for which a permit is sought, the proposed disposal areas, and the environmental impacts of those activities.**

Accordingly, I direct the Office of Water to prepare a proposal for submission to the Office of Management and Budget within four months from the date of this directive that proposes to consider, at a minimum, the following changes to EPA's regulations that would govern the future use of EPA's section 404(c) authority and seek public comment thereon:

- Eliminating the authority to initiate the section 404(c) process before a section 404 permit application has been filed with the Corps or a State, otherwise known as the "preemptive veto."

- Eliminating the authority to initiate the section 404(c) process after a permit has been issued by the Corps or a State, otherwise known as the "retroactive veto."

- Requiring a Regional Administrator to obtain approval from EPA Headquarters before initiating the section 404(c) process.

- Requiring a Regional Administrator to review and consider the findings of a final Environmental Assessment or Environmental Impact Statement prepared by the Corps or a State before preparing and publishing notice of a proposed determination.

- Requiring the Agency to publish and seek public comment on a final determination before such a determination takes effect.

Changing the current regulations would help to ensure that EPA exercises its extraordinary authority under section 404(c) in a careful, predictable, and prudent manner. The guiding principle should be to provide landowners, developers, and entrepreneurs with certainty that EPA will not short-circuit the permitting process and will consider all available information, including the results of an EIS, before taking any steps to veto a permit application. Adopting these changes would further EPA's core mission of protecting human health and the environment while improving predictability and regulatory certainty. The Office of Water shall begin preparing a regulatory proposal forthwith that includes these proposed changes for review and public comment.

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

Work Email: wilcox.jahan@epa.gov

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[1] *See* U.S. EPA, Chronology of 404(c) Actions, *available at* https://www.epa.gov/cwa-404/chronology-404c-actions.

AMERICAN OVERSIGHT

Message

From: Bennett, Tate [Bennett.Tate@epa.gov]
Sent: 3/9/2018 5:45:28 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: RE: Call with ATR re Pebble Mine

Yes- entirely different subject (CERCLA EPCRA)

From: Fotouhi, David
Sent: Friday, March 9, 2018 12:44 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

Even better!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Bennett, Tate
Sent: Friday, March 9, 2018 12:44 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

I just shot them an email! 3:30 can work!

From: Fotouhi, David
Sent: Friday, March 9, 2018 12:43 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

Okay, got it. Don't move the time—I'll make it work on my end.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Bennett, Tate
Sent: Friday, March 9, 2018 12:42 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

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Americans for Tax Reform. I'll explain offline but it's regarding an article they are writing for Forbes that will be critical of our recemt;y decision. They were going to print today but are letting us speak to them on background first now before it goes to print. I'll see what I can do, but we may have to keep this time.

From: Fotouhi, David
Sent: Friday, March 9, 2018 12:40 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

I have a call with DOJ at this time. Is there any flexibility to do it at 3:00 or 3:30? Also, who is ATR?

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Appointment-----
From: Bennett, Tate
Sent: Friday, March 9, 2018 12:38 PM
To: Bowman, Liz; Fotouhi, David
Subject: Call with ATR re Pebble Mine
When: Monday, March 12, 2018 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: The conference phone number: **Ex. 6 Personal Privacy (PP)**

The conference phone number: Ex. 6 Personal Privacy (Conf Line)
Participant code: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Wehling, Carrie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: Fri 3/2/2018 5:48:12 PM (UTC)
Subject: Fwd: FYI - Final briefing paper regarding additional options for public comment on Pebble/BB 404(c) action
Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
ATT00001.htm

Here's the Bristol Bay options briefing paper. Let us know if you'd like to discuss before the meeting.
Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Hough, Palmer" <Hough.Palmer@epa.gov>
Date: March 2, 2018 at 12:41:36 PM EST
To: "Allnutt, David" <Allnutt.David@epa.gov>
Cc: "Bennett, Brittany" <bennett.brittany@epa.gov>, "Herbst, John" <herbst.john@epa.gov>, "Hough, Palmer" <Hough.Palmer@epa.gov>, "Lindsay, Andrea" <Lindsay.Andrea@epa.gov>, "Nalven, Heidi" <Nalven.Heidi@epa.gov>, "Ortiz, Michael" <Ortiz.Michael@epa.gov>, "Palomaki, Ashley" <Palomaki.Ashley@epa.gov>, "Peterson, Erik" <Peterson.Erik@epa.gov>, "Shoemake, Neverley" <shoemake.neverley@epa.gov>, "Skadowski, Suzanne" <Skadowski.Suzanne@epa.gov>, "Steiner-Riley, Cara" <Steiner-Riley.Cara@epa.gov>, "Wehling, Carrie" <Wehling.Carrie@epa.gov>, "Whitley, Annie" <Whitley.Annie@epa.gov>
Subject: FYI - Final briefing paper regarding additional options for public comment on Pebble/BB 404(c) action

David

Attached is the final briefing paper sent forward to OW to add to next week's meeting invite. It should be added to the meeting invite shortly but you may want to forward it directly to Chris and others in R10.

-Palmer

From: Goodin, John
Sent: Friday, March 02, 2018 12:36 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Weiler, Katherine <Weiler.Katherine@epa.gov>
Cc: Hough, Palmer <Hough.Palmer@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Robiou, Grace <Robiou.Grace@epa.gov>; Weiler, Katherine <Weiler.Katherine@epa.gov>
Subject: To attach to March 7 Meeting: Final briefing paper regarding additional options for public comment on Pebble/BB 404(c) action

Crystal—Attached is the final version of the briefing paper evaluating options for additional public comment on our Pebble/BB 404(c) action to add to the meeting invite for our briefing with Lee F, David F, and Chris H currently scheduled for 3/7.
Thanks,

John

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To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Wehling, Carrie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: Tue 3/13/2018 12:46:58 AM (UTC)
Subject: FYI re latest letter from Pebble
18-000-5380.Pebble Project. Collier.pdf
Control Slip.pdf

Requesting streamlined permitting action pursuant to EO. FYI.
Not sure if this is the kind of thing that Matt would like a heads up on --
Carrie

Caroline (Carrie) Wehling

Assistant General Counsel

Water Law Office

Office of General Counsel

U.S. Environmental Protection Agency

202-564-5492

wehling.carrie@epa.gov

From: Palomaki, Ashley
Sent: Monday, March 12, 2018 8:41 PM
To: Steiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie
Subject: FW: Incoming CMS: 18-000-5380

Just FYI -

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: Allnutt, David
Sent: Monday, March 12, 2018 3:53 PM
To: Kelly, Christine M <kelly.christinem@epa.gov>
Cc: Anderson-Carnahan, Linda <Anderson-Carnahan.Linda@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: FW: Incoming CMS: 18-000-5380

Christine – I'm going to ask Patty, as our critical minerals expert, to take the lead on this. Copying others who may be interested in PLP's latest

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theory in support of expediting their permitting.

R. David Allnutt, Director

Office of Environmental Review and Assessment

U.S. EPA, Region 10

1200 Sixth Avenue, Suite 900

Seattle, Washington 98101-3140

(206) 553-2581

From: Kelly, Christine M
Sent: Monday, March 12, 2018 1:46 PM
To: Allnutt, David <Allnutt.David@epa.gov>; Anderson-Carnahan, Linda <Anderson-Carnahan.Linda@epa.gov>
Subject: Incoming CMS: 18-000-5380

Please find attached new CMS correspondence regarding the Pebble Project. Please let me know to whom this will be assigned.

Christine Kelly

EPA- Region 10

206-553-2770

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Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 3/12/2018 10:53:38 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: Re: SEPW QFR

Sorry, didn't copy Sarah the first time

Sent from my iPhone

On Mar 12, 2018, at 6:53 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

The rest looks good

Sent from my iPhone

On Mar 12, 2018, at 6:48 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

The second paragraph seems fine.

For the first paragraph, what about this (changes in red text)?

Ex. 5 Deliberative Process (DP)

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Palich, Christian
Sent: Monday, March 12, 2018 6:34 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-

AMERICAN OVERSIGHT

Erik@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Re: SEPW QFR

Thanks all!

Christian R. Palich
Deputy Associate Administrator
Office of Congressional Affairs
C: Ex. 6 Personal Privacy (PP)

Sent from my iPhone

On Mar 12, 2018, at 6:33 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

> Thanks David!
>
> **From:** Fotouhi, David
> **Sent:** Monday, March 12, 2018 6:33 PM
> **To:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
> **Cc:** Goodin, John <Goodin.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Subject:** RE: SEPW QFR
>
> We will review and provide comments ASAP.
>
> **David Fotouhi**
>
> Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> **From:** Forsgren, Lee
> **Sent:** Monday, March 12, 2018 6:24 PM
> **To:** Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
> **Cc:** Goodin, John <Goodin.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Subject:** RE: SEPW QFR

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Sven,

I would modify it as follows:

Ex. 5 Deliberative Process (DP)

I would ask that OGC review this response as well.

Regards,
Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3219 WJCE
Washington, DC 20460
Phone: 202-564-5700
Forsgren.Lee@epa.gov

From: Kaiser, Sven-Erik
Sent: Monday, March 12, 2018 6:01 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>
Subject: Re: SEPW QFR

AMERICAN OVERSIGHT

Lee- Are you okay with Greg Peck's draft response (in italics below)?
Thanks,
Sven

On Mar 12, 2018, at 5:18 PM, Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov> wrote:

> Lee, see Gregory Peck's draft below.
>
> **From:** Peck, Gregory
> **Sent:** Monday, March 12, 2018 2:37 PM
> **To:** Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
> **Subject:** RE: SEPW QFR
>
> How about something like this?
>
> ***107.*** <!--[if !supportLists]--><!--[endif]--> ***OW:*** I appreciated your recent announcement that that you have decided not to abandon proposed EPA oversight of the massive Pebble Mine, leaving restrictions in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources. Given EPA's role in this process, would you say that EPA can contribute valuable feedback to the development of projects, be they energy, mining, or transportation? Given EPA's valuable feedback, would you object to efforts to roll back EPA's responsibilities to provide input on infrastructure projects?

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Kaitlyn Shimmin
Special Assistant Congressional and Intergovernmental Affairs
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
O: (202) 564-4108
C: (Ex. 6 Personal Privacy (PP)
Shimmin.Kaitlyn@epa.gov

From: Forsgren, Lee
Sent: Monday, March 12, 2018 5:17 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: SEPW QFR

Sven-Erik,

You said you have a proposed response for this or do I need to do/have one done?

Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3219 WJCE
Washington, DC 20460
Phone: 202-564-5700
Forsgren.Lee@epa.gov

AMERICAN OVERSIGHT

From: Kaiser, Sven-Erik
Sent: Monday, March 12, 2018 2:14 PM
To: Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
Subject: SEPW QFR

OW Team – Thanks for getting in the SEPW QFR responses. Van Hollen #107 on infrastructure projects was originally assigned to OGC/OPA and it's been asked for OW to take a crack at it. Please take a look and see if you can draft a response. Apologies for the late notice. Please let me know if any questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753 (o)
Ex. 6 Personal Privacy (PP) (c)

107. <!--[if !supportLists]--><!--[endif]--> ***OW:*** I appreciated your recent announcement that that you have decided not to abandon proposed EPA oversight of the massive Pebble Mine, leaving restrictions in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources. Given EPA's role in this process, would you say that EPA can contribute valuable feedback to the development of projects, be they energy, mining, or transportation? Given EPA's valuable feedback, would you object to efforts to roll back EPA's responsibilities to provide input on infrastructure projects?

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Penman, Crystal[Penman.Crystal@epa.gov]
From: Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: Thur 3/1/2018 5:57:26 PM (UTC)
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

That is fine. The meeting had just gotten way way too big. North of 40 people most of whom I had no idea who they were or why they were coming.

From: Fotouhi, David
Sent: Thursday, March 1, 2018 12:51 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Steve is out of the office on sick leave. Carrie Wehling and Heidi Nalven from OGC should be included.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Thursday, March 1, 2018 12:49 PM
To: Penman, Crystal <Penman.Crystal@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Crystal,

Cancel this meeting and resend only to the OW staff John recommends – R10 – Chris Hladick David Allnut, Ashley Palomaki, Erik Peterson, David Fotouhi, Steve Neugeboren, and Sarah Greenwalt. Meeting is nontransferable.

Thanks,
Lee

From: Goodin, John
Sent: Thursday, March 1, 2018 12:34 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thanks, Lee. Recommend from OW (in addition to you) Palmer Hough, Russ Kaiser, and me. I defer to David and Chris re: their attendees. You are the owner of the invite and can have Crystal cancel/resend with new attendees.
Thanks
John

From: Forsgren, Lee
Sent: Thursday, March 01, 2018 11:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

DELIBERATIVE OVERSIGHT

John,

I just talked to Chris Hladick and we both agree that this meeting has grown way too large. We need to scale it back to no more than 4 OW staff including me, 4 from R10 including Chris, 2 from OGC including Dave Fotouhi and Sarah Greenwalt.

We can't be forthcoming enough to discuss options with 60 people involved.

Lee

-----Original Appointment-----
From: Tyson, Linda **On Behalf Of** Hladick, Christopher
Sent: Thursday, March 1, 2018 11:06 AM
To: Forsgren, Lee
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3233 WJCE

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To: Abboud, Michael[abboud.michael@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Hackel, Angela[Hackel.Angela@epa.gov]; Risley, David[Risley.David@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Messier, Dawn[Messier.Dawn@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Holsman, Marianne[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=332EE5ED102F4F65841285A4C06EA8B2-HOLSMAN, MARIANNE]
Sent: Tue 7/30/2019 7:34:31 PM (UTC)
Subject: RE: Pebble Mine- Press Inquires

OGC should be able to answer.

Marianne

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Like us on Facebook! @eparegion10

From: Abboud, Michael <abboud.michael@epa.gov>
Sent: Tuesday, July 30, 2019 12:29 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

OPA is aware. I need the factual answers to these questions 1 and 2 to pass along. We won't do a phone interview with this outlet.

From: Willey, Katharine
Sent: Tuesday, July 30, 2019 3:25 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Thanks Rob—all press inquiries on this matter need to go through OPA Michael Abboud (cc'd here) and the front office of OGC (David &I). Michael will let us know how to proceed.

From: Stachowiak, Robert
Sent: Tuesday, July 30, 2019 3:22 PM
To: Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Adding in relevant OGC folks for consideration.

To summarize for their benefit, there are three distinct inquiries:

(1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?

(2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?

(3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

Deadlines TBD, but (2) and (3) today.

Robert Stachowiak

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U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Hackel, Angela <Hackel.Angela@epa.gov>
Sent: Tuesday, July 30, 2019 3:11 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Pebble Mine- Press Inquires

Hello,

We have received the below inquires. I am circling back with folks on deadlines, although I know one of them is today.

Please advise as to how you would like to respond to the below.

Thanks!

Angela

From: bbohrer@ap.org <bbohrer@ap.org>
Sent: Tuesday, July 30, 2019 2:38 PM
To: Press <Press@epa.gov>
Subject: Media question-Pebble project-Tuesday

Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period?
If so, may I get a copy of that letter?
If not, why not and is the EPA able to move forward in the 404q process without such a letter?
Thank you.
I am writing today.
Becky Bohrer

Hello,

Is anyone available to do a phone interview with an Anchorage reporter today regarding this decision?

Please reply all,

Melinda Bolton

Assignment Manager | Content Supervisor

KTUU Channel 2 | ktuu.com

Newsroom (907)762-9260

Direct (330)787-4234

From: elwood.brehmer@alaskajournal.com <elwood.brehmer@alaskajournal.com>
Sent: Tuesday, July 30, 2019 2:54 PM

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To: Press <Press@epa.gov>
Subject: Bristol Bay 404c clarification

Hello,
One clarification: Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
Thank you,
Elwood

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

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To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Tue 7/23/2019 1:08:55 PM (UTC)
Subject: RE: 404q
Pebble Mine - 404(q) MOA 3(b) extension letter.docx

Matt - I have attached a draft extension letter. This version reflects input from Steve and Allyn.

From: Leopold, Matt (OGC)
Sent: Monday, July 22, 2019 3:50 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: 404q

Thanks Steve. We need to finalize it tomorrow.

Heidi, thanks for all your extra time on over the weekend.

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Neugeboren, Steven
Sent: Monday, July 22, 2019 2:48 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: 404q

We should have a draft to you tomorrow morning. Heidi and I are about to meet about the letter and her revisions to with withdrawal notice. She spent much of the weekend revising the notice and once we meet she will turn to drafting the letter to Army.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Leopold, Matt (OGC)
Sent: Monday, July 22, 2019 1:57 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: 404q

Hi Steve, do you have a draft of a the (b) letter for me to send to the Corps asking for an extension of time?

Thanks, Matt

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

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To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Brazauskas, Joseph[brazauskas.joseph@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Beach, Christopher[beach.christopher@epa.gov]; McFaul, Jessica[mcfaul.jessica@epa.gov]; Schiermeyer, Corry[schiermeyer.corry@epa.gov]
From: Abboud, Michael[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B6F5AF791A1842F1ADCC088CBF9ED3CE-ABBOUD, MIC]
Sent: Tue 7/30/2019 4:12:00 PM (UTC)
Subject: FW: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

Hey everyone quick update. This is ready to roll at 2pm eastern from Region 10 with amplification from HQ. This has been shared with Jen as well under embargo.

From: EPA Press Office <press@epa.gov>
Sent: Tuesday, July 30, 2019 12:07 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) - Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

"Today's action restores the well-understood permit review process for the Pebble Mine project" **said Region 10 Administrator Chris Hladick**. "The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014. By withdrawing the 2014 Proposed Determination, which was issued preemptively and is now outdated, the agency can continue its focus on fulfilling its responsibilities under the Clean Water Act to work with the Army Corps to review the permit."

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process. "Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**. EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a

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lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

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https://usenvironmentalprotectionagency.cmail19.com/t/d-i-pudtra-l-y/

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To: Fotouhi, David[Fotouhi.David@epa.gov]; Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Mon 7/29/2019 4:33:27 PM (UTC)
Subject: FW: Pebble Notice -- latest clean version
Withdrawal of 2014 Proposed Determination_072919_CLEAN.DOCX
Withdrawal of 2014 Proposed Determination_072919_nits.docx

Ashley (R10 ORC staff attorney now back from vacation) read the version from this morning and found a few very minor nits that are addressed in attached clean version. I have also attached a redline of the nits just in case you wanted to see them.

From: Nalven, Heidi
Sent: Monday, July 29, 2019 9:45 AM
To: Fotouhi, David <fotouhi.david@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: RE: Pebble Notice

Attached is a clean version with all of your edits accepted. I added clarifying language to the sentence you flagged on page 12 to make clear Ex. 5 Deliberative Process (DP) I saw you hyphenated "decision making" so I did a find and replace to catch all of the other references.

From: Fotouhi, David
Sent: Sunday, July 28, 2019 11:31 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: Pebble Notice

DELIBERATIVE

Very nice work on this draft. I've tracked a handful of edits and one comment in the attached version. Thank you!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Leopold, Matt (OGC)
Sent: Friday, July 26, 2019 11:41 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: Re: Pebble Notice

Thank you.

Sent from my iPhone
On Jul 26, 2019, at 7:44 PM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

> Matt and David,
>
> I have attached the latest clean draft of the Bristol Bay PD withdrawal notice that reflects your most recent feedback. I understand that you will be transmitting a draft of the notice to Chris and Lee separately. As discussed earlier today with David, copying Allyn as well.

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Heidi thank you for all of your work on this. Have a good weekend all.

Steve

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

<Withdrawal of 2014 Proposed Determination_072619.docx>

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To: Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Brown, Leah[Brown.Leah@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; McGrath, Patricia[mcgrath.patricia@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]
From: Stern, Allyn[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2E2D6F5DF08D4E9ABBFF2C0880407775-STERN, ALLYN]
Sent: Tue 7/30/2019 3:47:46 PM (UTC)
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369
image003.png
ATT00001.htm
07302019 EPA-R10-OW-2017-0369 Notice to Withdraw Pebble Deposit Area, SW Alaska.pdf
ATT00002.htm

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

Begin forwarded message:

From: "Gahner, Pamela" <gahner.pamela@epa.gov>
Date: July 30, 2019 at 7:56:19 AM PDT
To: "Stern, Allyn" <Stern.Allyn@epa.gov>
Cc: "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
Subject: Signed this morning EPA-R10-OW-2017-0369

Signed this morning, please see attached.

Sincerely,

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To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]
From: Brazauskas, Joseph[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BABF7B77AEEC4FFEAAD446BB35E05B24-BRAZAUSKAS,]
Sent: Wed 7/31/2019 1:06:25 PM (UTC)
Subject: FW: Pebble Mine Preemptive Veto Scrapped, Obama Tool of Tyranny No More

FYI

Joseph A. Brazauskas
Acting Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
(202) 564-5189

From: Kolb, John (JohnMark) <kolb.john@epa.gov>
Sent: Wednesday, July 31, 2019 9:00 AM
To: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Edwards, John (Holt) <edwards.john@epa.gov>; Struhar, Kirby <struhar.kirby@epa.gov>
Subject: FW: Pebble Mine Preemptive Veto Scrapped, Obama Tool of Tyranny No More

FYI

From: Western Caucus <Western.Caucus=mail.house.gov@cmail19.com> **On Behalf Of** Western Caucus
Sent: Tuesday, July 30, 2019 6:27 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>
Subject: Pebble Mine Preemptive Veto Scrapped, Obama Tool of Tyranny No More

No Images? Click here

For Immediate Release
Date: July 30, 2019
Contact: Ben Goldey | Ben.Goldey@mail.house.gov
Jeff Small | Jeff.Small@mail.house.gov

Pebble Mine Preemptive Veto Scrapped, Obama Tool of Tyranny No More

WASHINGTON, D.C. – Today, Western Caucus Members and stakeholder released statements applauding the EPA's decision to withdraw President Obama's outdated, preemptive veto of the Pebble Mine Project in Southwest Alaska:

Congressional Western Caucus Chairman Paul Gosar (AZ-04): "There is no good or lawful reason that the Pebble Mine Project shouldn't be able to go through the normal environmental review process just like any other proposed project. President Obama's veto was based on political expediency rather than sound science. I am grateful to see another terrible decision from the previous

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administration reversed by President Trump."

EPA Region 10 Administrator Chris Hladick: "After today's action, EPA will focus on the permit review process for the Pebble Mine project. The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014."

EPA General Counsel Matthew Leopold: "Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency."

Chief Regulatory Reform Officer Andy Biggs (AZ-05): "I commend the Trump administration for striking down the previous administration's preemptive veto of the Pebble Mine Project, which set an extraordinarily ominous precedent. I now hope that Pebble's sponsors receive what all mining companies deserve: a fair review. We must also extensively reform EPA's permitting process to ensure that other companies in the future are not subjected to the whims of unaccountable bureaucrats."

Chief Agriculture and Business Officer Doug LaMalfa (CA-01): "I commend the Trump administration for striking down the previous administration's preemptive veto of the Pebble Mine Project, which set an extraordinarily ominous precedent. I now hope that Pebble's sponsors receive what all mining companies deserve: a fair review. We must also extensively reform EPA's permitting process to ensure that other companies in the future are not subjected to the whims of unaccountable bureaucrats."

Congressman Bob Gibbs (OH-07): "I am relieved to see the EPA taking this corrective action. The Obama Administration's preemptive veto of the Pebble Mine short-circuited the Section 404 permitting process, setting a dangerous precedent and empowering EPA bureaucrats well beyond their constitutional authority. The EPA has an important role to play in the NEPA process, but preemptively issuing permit denials is an abuse of power, which is why I introduced the Reform EPA Act to curb the agency's veto authority. No entity would even bother applying for a permit without

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the certainty of a fair and impartial process. I applaud the Trump Administration's efforts to ensure due process and private property rights are protected."

Pebble Limited Partnership CEO Tom Collier: "Finally, this Administration has reversed the outrageous federal government overreach inflicted on the State of Alaska by the Obama Administration. The preemptive veto was an action by an Administration that sought to vastly expand EPA's authority to regulate land use on state, private and Native-owned lands throughout the United States, and in doing so kill one of America's most important mineral projects before a development plan was proposed or a comprehensive Environmental Impact Statement (EIS) permitting review was undertaken. The Proposed Determination ordered to be lifted today was a preemptive veto that had never before been attempted in the 45-year history of the Clean Water Act – a fact acknowledged by the former Administrator's senior staff."

Grover Norquist, Americans for Tax Reform: "Today's decision from the EPA to finally withdraw the Obama administration's unprecedented use of preemptive veto against Pebble Mine is a major win for the rule of law. In an attempt to appease radical environmentalists and their donors, the Obama administration weaponized the EPA to deny this project's environmental review. ATR is thankful the Trump EPA reversed this decision and held to the simple idea that a project's permitting should be based upon a proper environmental review process and not the politics of the President."

Ben Lieberman, Competitive Enterprise Institute: "The Obama EPA's pre-emptive rejection of the Pebble Mine threatened to block this worthwhile project that has the potential to create thousands of jobs and provide a wealth of minerals, including rare earths. The Trump EPA did the right thing by reversing this mistake and instead of participating in the Army Corps of Engineers' data-driven analysis under NEPA that is currently underway."

The National Mining Association: "This is a long-overdue but welcome development that will allow the rigorous permit review process for the Pebble Mine project to proceed in a fair and transparent fashion. This was a classic case of the EPA under the

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prior administration abusing its veto authority to obstruct a project before it was even proposed. Every project - including Pebble - should be weighed on its merits. Regulatory uncertainty in the U.S. that stemmed from actions such as the original veto have hampered investment in our vast domestic resources for too long; our hope is that commonsense action such as this, coupled with permitting reforms that have been proposed under this administration, will help increase investment in domestic mining and decrease our reliance on foreign imports."

Background:

Today, EPA Region 10 Administrator Chris Hladick withdrew the Obama Administration's preemptive veto of the proposed Pebble Mine Project in Southwest Alaska.

The Pebble Mine:

The Pebble Mine is a proposed copper, gold and molybdenum mine in southwestern Alaska, located on State-owned lands dedicated to resource development. Developing the Pebble deposit resource would create as many as 5,000 construction jobs and 3,000 full-time jobs in Alaska, and 16,000 jobs nationally, for the productive life of the mine; contribute as much as $2.5 billion to the U.S. GDP every year; and generate between $165-$213 million in annual taxes and royalties to the State. In addition, the copper deposits alone would provide approximately 33% of the annual U.S. copper needs for many years, allowing the U.S. to reduce its dependence on foreign imports.

History of Federal Overreach:

Developing the Pebble Mine requires the USACE to issue a permit under Section 404 of the Clean Water Act (CWA), and NEPA requires the USACE to complete an EIS before it can issue such a permit. In February 2014, the Obama Administration EPA announced it was initiating an unprecedented proceeding under CWA Section 404(c) to preemptively veto the Pebble mine, while Pebble sponsors were still in the process of evaluating the financing, scope and appropriate environmental safeguards for the project and ***before*** they had even applied for a Section 404 permit.

Actions Taken by Western Caucus to Correct this Injustice

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Include:

- In April of 2018, Western Caucus hosted Pebble Partnership CEO Tom Collier for a bipartisan briefing on this issue.

- In May of 2018, Western Caucus led a coalition of 18 Members of Congress and dozens of stakeholders urging EPA to rescind the preemptive veto. Click here for more

- In June of 2019, Western Caucus Chairman Paul Gosar and staff met with General Counsel Leopold and staff and encouraged the EPA to act to withdraw the Obama Administration's preemptive veto.

- In June of 2019, Members of the Western Caucus opposed an amendment from Rep. Jared Huffman (D-CA) that would block funding to finalize an environmental study for the proposed Pebble Mine. Click here for more

- In June of 2019, Western Caucus hosted Pebble Partnership Senior Vice President Peter Roberson for a bicameral briefing on this issue.

- In June of 2019, Members of the Western Caucus and stakeholders released statements applauding EPA General Counsel Matthew Leopard decision directing officials to resume consideration of the preemptive veto. Click here for more

Courtesy of the EPA:

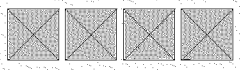
This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific

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information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register."

###

As always, you can follow everything Western Caucus on our Website, Twitter, Facebook and Instagram.



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To: Fotouhi, David[Fotouhi.David@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]
Cc: Holsman, Marianne[Holsman.Marianne@epa.gov]; Risley, David[Risley.David@epa.gov]; Hackel, Angela[Hackel.Angela@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Messier, Dawn[Messier.Dawn@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Abboud, Michael[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B6F5AF791A1842F1ADCC088CBF9ED3CE-ABBOUD, MIC]
Sent: Tue 7/30/2019 9:10:12 PM (UTC)
Subject: RE: Pebble Mine- Press Inquires

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David
Sent: Tuesday, July 30, 2019 5:09 PM
To: Abboud, Michael <abboud.michael@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Risley, David <Risley.David@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Ex. 5 Deliberative Process (DP)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

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Sent: Tuesday, July 30, 2019 5:05 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Risley, David <Risley.David@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
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AMERICAN OVERSIGHT

Subject: Re: Pebble Mine- Press Inquires

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> Completely agree that they need to go through David. I have a couple of ideas but will reach out to him so that we are not duplicating work.
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> **Subject:** RE: Pebble Mine- Press Inquires
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> Assume OGC "has the pen" as they say. We aren't working on responses.
>
> Marianne
>
> *Follow us on Twitter! @EPAnorthwest*
> *Like us on Facebook! @eparegion10*
>
> ---
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> **From:** Risley, David <Risley.David@epa.gov>
> **Sent:** Tuesday, July 30, 2019 12:52 PM
> **To:** Hackel, Angela <Hackel.Angela@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine

AMERICAN OVERSIGHT

<willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Hi all,
Unfortunately, I have to step away from my desk. Please copy Lee Forsgren (CC'ed here) for OW review on any draft responses to 2 and 3, today.

Best,
David

David Risley
EPA Office of Water
Acting Deputy Communications Director
202-343-9177

From: Hackel, Angela
Sent: Tuesday, July 30, 2019 3:49 PM
To: Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Hello,

I just heard back from a couple of the reporters. I received a noon deadline for the first inquiry. And for the third request, they provided us with a list of their questions, which I provided below.

To summarize for their benefit, there are three distinct inquiries:

> (1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
>
> (2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?
>
> (3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

What is the "specific information" that was not available in 2014 in regard to Pebble Mine that led the EPA to withdraw change their determination restricting the use of the area for a deposit site for dredge and mine fill materials?

Can you further describe this process, "the well-understood elevation process under CWA section 404(q) and the NEPA process" and how that may be exhausted?

How does this impact the Environmental Impact statement for the proposed mine?
What change does this have on the future of the mine?
Does this change have anything to do with the meeting between the Governor of Alaska and the President of the United States in June?

Deadlines 1 (noon July 31), but (2) and (3) today.

AMERICAN OVERSIGHT

Thanks,

Angela

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

From: Abboud, Michael
Sent: Tuesday, July 30, 2019 3:29 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

OPA is aware. I need the factual answers to these questions 1 and 2 to pass along. We won't do a phone interview with this outlet.

From: Willey, Katharine
Sent: Tuesday, July 30, 2019 3:25 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Thanks Rob—all press inquiries on this matter need to go through OPA Michael Abboud (cc'd here) and the front office of OGC (David &I). Michael will let us know how to proceed.

From: Stachowiak, Robert
Sent: Tuesday, July 30, 2019 3:22 PM
To: Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Adding in relevant OGC folks for consideration.

To summarize for their benefit, there are three distinct inquiries:

(1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?

(2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?

(3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

AMERICAN OVERSIGHT

Deadlines TBD, but (2) and (3) today.

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Hackel, Angela <Hackel.Angela@epa.gov>
Sent: Tuesday, July 30, 2019 3:11 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Pebble Mine- Press Inquires

Hello,

We have received the below inquires. I am circling back with folks on deadlines, although I know one of them is today.

Please advise as to how you would like to respond to the below.

Thanks!

Angela

From: bbohrer@ap.org <bbohrer@ap.org>
Sent: Tuesday, July 30, 2019 2:38 PM
To: Press <Press@epa.gov>
Subject: Media question-Pebble project-Tuesday

Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period?
If so, may I get a copy of that letter?
If not, why not and is the EPA able to move forward in the 404q process without such a letter?
Thank you.
I am writing today.
Becky Bohrer

Hello,

Is anyone available to do a phone interview with an Anchorage reporter today regarding this decision?

Please reply all,

Melinda Bolton

Assignment Manager | Content Supervisor

KTUU Channel 2 | ktuu.com

Newsroom (907)762-9260

Direct (330)787-4234

AMERICAN OVERSIGHT

From: elwood.brehmer@alaskajournal.com <elwood.brehmer@alaskajournal.com>
Sent: Tuesday, July 30, 2019 2:54 PM
To: Press <Press@epa.gov>
Subject: Bristol Bay 404c clarification

Hello,
One clarification: Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
Thank you,
Elwood

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Willey, Katharine[willey.katharine@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]
Cc: Holsman, Marianne[Holsman.Marianne@epa.gov]; Risley, David[Risley.David@epa.gov]; Hackel, Angela[Hackel.Angela@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Messier, Dawn[Messier.Dawn@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: Tue 7/30/2019 9:09:13 PM (UTC)
Subject: RE: Pebble Mine- Press Inquires

There should be no action until David/Matt have reviewed and approved.

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, July 30, 2019 5:08 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Risley, David <Risley.David@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: Re: Pebble Mine- Press Inquires

David has not. We should hold for his review.
On Jul 30, 2019, at 5:05 PM, Abboud, Michael <abboud.michael@epa.gov> wrote:

> Has David seen them yet?
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> **From:** Forsgren, Lee
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> **Cc:** Holsman, Marianne <Holsman.Marianne@epa.gov>; Risley, David <Risley.David@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
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AMERICAN OVERSIGHT

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Subject: RE: Pebble Mine- Press Inquires

Assume OGC "has the pen" as they say. We aren't working on responses.

Marianne

Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

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AMERICAN OVERSIGHT

David

David Risley
EPA Office of Water
Acting Deputy Communications Director
202-343-9177

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Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
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Office: 202.566.2977

AMERICAN OVERSIGHT

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Sent: Tuesday, July 30, 2019 3:29 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

OPA is aware. I need the factual answers to these questions 1 and 2 to pass along. We won't do a phone interview with this outlet.

From: Willey, Katharine
Sent: Tuesday, July 30, 2019 3:25 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
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Subject: RE: Pebble Mine- Press Inquires

Thanks Rob—all press inquiries on this matter need to go through OPA Michael Abboud (cc'd here) and the front office of OGC (David &I). Michael will let us know how to proceed.

From: Stachowiak, Robert
Sent: Tuesday, July 30, 2019 3:22 PM
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Subject: RE: Pebble Mine- Press Inquires

Adding in relevant OGC folks for consideration.

To summarize for their benefit, there are three distinct inquiries:

> (1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
>
> (2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?
>
> (3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

Deadlines TBD, but (2) and (3) today.

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Hackel, Angela <Hackel.Angela@epa.gov>

AMERICAN OVERSIGHT

Sent: Tuesday, July 30, 2019 3:11 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Pebble Mine- Press Inquires

Hello,

We have received the below inquires. I am circling back with folks on deadlines, although I know one of them is today.

Please advise as to how you would like to respond to the below.

Thanks!

Angela

From: bbohrer@ap.org <bbohrer@ap.org>
Sent: Tuesday, July 30, 2019 2:38 PM
To: Press <Press@epa.gov>
Subject: Media question-Pebble project-Tuesday

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If so, may I get a copy of that letter?
If not, why not and is the EPA able to move forward in the 404q process without such a letter?
Thank you.
I am writing today.
Becky Bohrer

Hello,

Is anyone available to do a phone interview with an Anchorage reporter today regarding this decision?

Please reply all,

Melinda Bolton

Assignment Manager | Content Supervisor

KTUU Channel 2 | ktuu.com

Newsroom (907)762-9260

Direct (330)787-4234

From: elwood.brehmer@alaskajournal.com <elwood.brehmer@alaskajournal.com>
Sent: Tuesday, July 30, 2019 2:54 PM
To: Press <Press@epa.gov>
Subject: Bristol Bay 404c clarification

Hello,

AMERICAN OVERSIGHT

One clarification: Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
Thank you,
Elwood

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]
Cc: Voyles, Travis[Voyles.Travis@epa.gov]
From: Brazauskas, Joseph[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BABF7B77AEEC4FFEAAD446BB35E05B24-BRAZAUSKAS,]
Sent: Tue 7/30/2019 9:03:04 PM (UTC)
Subject: Fwd: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

FYI briefing request.

Sent from my iPhone

Begin forwarded message:

From: "Seiger, Ryan" <Ryan.Seiger@mail.house.gov>
Date: July 30, 2019 at 4:39:04 PM EDT
To: "'Kolb, John (JohnMark)'" <kolb.john@epa.gov>
Cc: "Brazauskas, Joseph" <brazauskas.joseph@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>, "Bermudez, Navis" <Navis.Bermudez@mail.house.gov>, "Touton, Camille" <Camille.Touton@mail.house.gov>, "Williams, Alexa" <Alexa.Williams2@mail.house.gov>
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

John:

The House Transportation and Infrastructure Committee would be interested in a meeting on this.

Let's start to identify some times in the near future when this can happen.

Ryan C. Seiger
Staff Director/Senior Counsel
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
585 Ford House Office Building
Washington, D.C. 20515
(202) 225-0060

From: Kolb, John (JohnMark) <kolb.john@epa.gov>
Sent: Tuesday, July 30, 2019 1:55 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>
Subject: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

All –

Today, the U.S. Environmental Protection Agency Region 10 is withdrawing its 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' draft Environmental Impact Statement (DEIS) includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain conclusions conflict with preliminary conclusions

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in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops, including the well-understood elevation process under CWA section 404(q). EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by Chris Hladick, EPA's Region 10 Regional Administrator, which will be published in the Federal Register.

Today's action does not approve Pebble's permit application or determine a particular outcome in the permitting process; rather; it allows EPA to focus on working with the Corps to review the current CWA 404 permit application and engage in the National Environmental Policy Act (NEPA) process. EPA Region 10 provided the Corps with detailed comments to its DEIS and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process, including development of the Final NEPA EIS and other information to inform the Corps' permit decision. Updated information is available at EPA's Bristol Bay website, https://www.epa.gov/bristolbay.

Background on the Consideration of the Withdrawal of the July 2014 Proposed Determination to Restrict the Use of the Pebble Deposit Area as a Disposal Site

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. Since then, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, a permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was "suspending th[e] withdrawal proceeding and leaving the [2014] Proposed Determination in place" at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

Last week, EPA requested an extension from the Corps on the deadline for the Agency to send a 3(b) letter. EPA is still operating within the elevation process, while recognizing that this process is unique and that 25 days was an insufficient amount of time to work through the over 150 pages of comments EPA provided on July 1st. EPA will use the remaining time extension to work with the Corps to resolve these comments. The Corps has agreed to give us 90 days, during which, we will continue the discussion.

AMERICAN OVERSIGHT

If you or your staff would like a briefing on the decision by EPA to withdraw the 2014 Proposed Determination, please let me know, and I will be happy to arrange something in the following week.

Sincerely,

JohnMark Kolb
Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
O: (202) 564-7793
C: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Holsman, Marianne[Holsman.Marianne@epa.gov]; Risley, David[Risley.David@epa.gov]; Hackel, Angela[Hackel.Angela@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Messier, Dawn[Messier.Dawn@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]
From: Willey, Katharine[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B62280CA8B184930814F27E4904CD17B-WILLEY, KAT]
Sent: Tue 7/30/2019 8:13:47 PM (UTC)
Subject: RE: Pebble Mine- Press Inquires

I'd like to have Abboud edit these responses and then they need to go through David. I think we should answers specifically the first two questions and then use a more general response for the remaining questions.

Ex. 5 Deliberative Process (DP)

From: Holsman, Marianne
Sent: Tuesday, July 30, 2019 3:57 PM
To: Risley, David <Risley.David@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Assume OGC "has the pen" as they say. We aren't working on responses.

Marianne

Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Risley, David <Risley.David@epa.gov>
Sent: Tuesday, July 30, 2019 12:52 PM
To: Hackel, Angela <Hackel.Angela@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Hi all,
Unfortunately, I have to step away from my desk. Please copy Lee Forsgren (CC'ed here) for OW review on any draft responses to 2 and 3, today.

Best,
David

AMERICAN OVERSIGHT

David Risley
EPA Office of Water
Acting Deputy Communications Director
202-343-9177

From: Hackel, Angela
Sent: Tuesday, July 30, 2019 3:49 PM
To: Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
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Can you further describe this process, "the well-understood elevation process under CWA section 404(q) and the NEPA process" and how that may be exhausted?

How does this impact the Environmental Impact statement for the proposed mine?
What change does this have on the future of the mine?
Does this change have anything to do with the meeting between the Governor of Alaska and the President of the United States in June?

Deadlines 1 (noon July 31), but (2) and (3) today.

Thanks,

Angela

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

From: Abboud, Michael
Sent: Tuesday, July 30, 2019 3:29 PM

AMERICAN OVERSIGHT

To: Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
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Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
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AMERICAN OVERSIGHT

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Angela

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Sent: Tuesday, July 30, 2019 2:38 PM
To: Press <Press@epa.gov>
Subject: Media question-Pebble project-Tuesday

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Please reply all,

Melinda Bolton

Assignment Manager | Content Supervisor

KTUU Channel 2 | ktuu.com

Newsroom (907)762-9260

Direct (330)787-4234

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To: Press <Press@epa.gov>
Subject: Bristol Bay 404c clarification

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Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977

HOUSE OVERSIGHT

Cell Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Holsman, Marianne[Holsman.Marianne@epa.gov]; Risley, David[Risley.David@epa.gov]; Hackel, Angela[Hackel.Angela@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]
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Sent: Tue 7/30/2019 8:03:26 PM (UTC)
Subject: RE: Pebble Mine- Press Inquires

Our understanding is that Katharine is the OGC point person on press inquiries related to Pebble Mine. Heidi and I are happy to assist as need be.
Katharine, please let us know what you need from us; we are standing by.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

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Follow us on Twitter! @EPAnorthwest
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David Risley
EPA Office of Water
Acting Deputy Communications Director
202-343-9177

AMERICAN OVERSIGHT

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Thanks,

Angela

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

From: Abboud, Michael
Sent: Tuesday, July 30, 2019 3:29 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

OVERSIGHT

OPA is aware. I need the factual answers to these questions 1 and 2 to pass along. We won't do a phone interview with this outlet.

From: Willey, Katharine
Sent: Tuesday, July 30, 2019 3:25 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Thanks Rob—all press inquiries on this matter need to go through OPA Michael Abboud (cc'd here) and the front office of OGC (David &I). Michael will let us know how to proceed.

From: Stachowiak, Robert
Sent: Tuesday, July 30, 2019 3:22 PM
To: Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Adding in relevant OGC folks for consideration.

To summarize for their benefit, there are three distinct inquiries:

> (1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
>
> (2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?
>
> (3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

Deadlines TBD, but (2) and (3) today.

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Hackel, Angela <Hackel.Angela@epa.gov>
Sent: Tuesday, July 30, 2019 3:11 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Pebble Mine- Press Inquires

Hello,

We have received the below inquires. I am circling back with folks on deadlines, although I know one of them is today.

Please advise as to how you would like to respond to the below.

Thanks!

Angela

AMERICAN OVERSIGHT

From: bbohrer@ap.org <bbohrer@ap.org>
Sent: Tuesday, July 30, 2019 2:38 PM
To: Press <Press@epa.gov>
Subject: Media question-Pebble project-Tuesday

Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period?
If so, may I get a copy of that letter?
If not, why not and is the EPA able to move forward in the 404q process without such a letter?
Thank you.
I am writing today.
Becky Bohrer

Hello,

Is anyone available to do a phone interview with an Anchorage reporter today regarding this decision?

Please reply all,

Melinda Bolton

Assignment Manager | Content Supervisor

KTUU Channel 2 | ktuu.com

Newsroom (907)762-9260

Direct (330)787-4234

From: elwood.brehmer@alaskajournal.com <elwood.brehmer@alaskajournal.com>
Sent: Tuesday, July 30, 2019 2:54 PM
To: Press <Press@epa.gov>
Subject: Bristol Bay 404c clarification

Hello,
One clarification: Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
Thank you,
Elwood

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

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

February 13, 2019

OFFICE OF MISSION SUPPORT

Ben Lieberman
Competitive Enterprise Institute
1310 L Street, NW; 7th Floor
Washington, DC 20005

Dear Mr. Lieberman:

This letter is to provide you with a status update to your Request for Correction (RFC #19001) received by the U.S. Environmental Protection Agency (EPA) on November 14, 2018. In your RFC, you cite concerns about the quality of the 2014 Bristol Bay Watershed Assessment (BBWA). The issues you raised are currently under consideration by the EPA subject matter experts responsible for the disseminated information.

EPA expects to provide you with a response to the RFC or another status update within 90 business days, June 21, 2019.

Sincerely,

Vincia Holloman

Vincia Holloman, Director
Enterprise Quality Management Division
Office of Enterprise Information Programs

AMERICAN OVERSIGHT

To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Neugeboren, Steven[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: Tue 6/18/2019 3:43:44 PM (UTC)
Subject: RE: Tom Allen - RFC 19001

Dropping Matt and adding David for his awareness. Rob fyi - David will be putting before Matt today a draft response to the RFC, which OW should be signing Friday. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Leopold, Matt (OGC)
Sent: Tuesday, June 18, 2019 11:34 AM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: FW: Tom Allen - RFC 19001

From: Thomas Allen <thomas@markeallenlaw.com>
Sent: Tuesday, June 18, 2019 11:29 AM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Tom Allen - RFC 19001

Mr. Leopold,

Is the EPA going to follow NEPA or continue to be a rogue agency with no accountability? I'd appreciate ONE response moving forward. The comments you received from all interested parties in Alaska is great and all, but should have nothing to do with your decision to remove the BBWA and veto. They are illegal, unjust, and circumvent the established NEPA process. I hope a response is made soon regarding the illegal BBWA and veto. It is ridiculous that they are still in place. I don't see how the BBWA and veto stand up to a FEIS in a court of law either. I have yet to hear from you, so I have no clue where your thoughts are on Pebble.

Respectfully,
Tom Allen

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT



June 27, 2019

The Honorable Andrew Wheeler
Administrator
United States Environmental Protection Agency
Washington, DC 20460

Re: November 14, 2018 Request for Correction Number 19002 Pertaining to the Bristol Bay Watershed Assessment

Dear Administrator Wheeler:

On November 14, 2018, the Competitive Enterprise Institute filed a Request for Correction (RSC) regarding the Environmental Protection Agency's Bristol Bay Watershed Assessment (BBWA) and consequent agency action that effectively rejected the Pebble Mine project in Alaska. As discussed in the request, the BBWA fell well short of the standards set out in the Information Quality Act and your agency's implementing guidelines. What made this request fairly unique is that your agency compiled the BBWA and used it to reject the project before the Army Corps of Engineers had commenced its far more rigorous Environmental Impact Statement (EIS) process pursuant to law under the National Environmental Policy Act (NEPA). In other words, EPA's actions pre-empted a process that conforms much more closely to the requirements of the Information Quality Act.

On March 20, 2019, we sent you a letter reiterating our strong interest in resolving this issue, especially in light of the fact that the Army Corps of Engineers' assessment of the Pebble Mine project was now underway. That assessment is indeed proving itself to be everything the BBWA was not in terms of meeting both the procedural and substantive requirements of the Information Quality Act. Nonetheless, the NEPA process may be derailed by EPA's actions prejudging the outcome and potentially rendering it moot.

The most recent communications from your agency regarding CEI's request were a February 13, 2019 letter promising to respond to the petition by June 21, 2019, followed by another letter dated June 20, 2019 stating that an unspecified additional amount of time will be needed. This is unacceptable. We now reiterate our strong interest in the immediate resolution of this matter.

We would also note that on April 24, 2019, The Office of Management and Budget issued a Memorandum, "Improving Implementation of the Information Quality Act." This administration-wide Memorandum included the procedural requirement that "agencies will not

AMERICAN OVERSIGHT

take more than 120 days to respond to an RFC without the concurrence of the party that requested the request for correction." This deadline has long passed and CEI has no intention of agreeing to an extension.

In addition, it is worth noting that several of the substantive reforms in the Memorandum, especially those requiring the disclosure of underlying assumptions and the accurate characterization of probabilities and uncertainties, further underscores that the BBWA fails under the Information Quality Act and is out of step with the Trump administration's stated priorities.

We urge you to adhere to both the deadlines and the substance of the Memorandum by immediately withdrawing the BBWA.

Respectfully Submitted,

Ben Lieberman
Senior Fellow
ben.lieberman@cei.org
(202) 331-1010

Competitive Enterprise Institute
1310 L Street NW, Seventh Floor
Washington, DC 20005

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]
From: Neugeboren, Steven[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: Fri 7/26/2019 11:44:06 PM (UTC)
Subject: Pebble Notice
Withdrawal of 2014 Proposed Determination_072619.docx

Matt and David,

I have attached the latest clean draft of the Bristol Bay PD withdrawal notice that reflects your most recent feedback. I understand that you will be transmitting a draft of the notice to Chris and Lee separately. As discussed earlier today with David, copying Allyn as well.

Heidi thank you for all of your work on this. Have a good weekend all.

Steve

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

AMERICAN OVERSIGHT

To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
Cc: Cody, Meredith[cody.meredith@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Wed 6/5/2019 1:29:33 PM (UTC)
Subject: RE: RFC 19001-Bristol Bay

Yes, Matt indicated Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Stachowiak, Robert
Sent: Wednesday, June 05, 2019 9:24 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

Ex. 5 Deliberative Process (DP)

Thanks,
R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Neugeboren, Steven
Sent: Wednesday, May 29, 2019 6:02 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

David and I just discussed and think we should discuss at re greview tomorrow. pls see if ccilo can join.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Stachowiak, Robert
Sent: Tuesday, May 28, 2019 4:32 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

Hi everyone –

There are two e-mail threads on this, so bringing them together to identify next steps.

So that Matt can be responsive to the incoming, I had proposed the following response (as edited by Heidi) –

Dear Mr Stephens –

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

David/Steve – Are you OK with moving forward on the interim response above?

Thanks,
R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Neugeboren, Steven
Sent: Tuesday, May 28, 2019 9:17 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

I agree that since Matt decided OW should sign response to RFC it would make sense for them to respond to this as needed. Adding David.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Wehling, Carrie
Sent: Monday, May 27, 2019 9:37 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

This issue is a bit different since it's not generally about Pebble but about a Request for Correction. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

AMERICAN OVERSIGHT

From: Stachowiak, Robert
Sent: Friday, May 24, 2019 3:42 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: FW: RFC 19001-Bristol Bay

WLO folks - Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Sincerely,

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel

CC: EPA/OGC/Water Law Office

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Leopold, Matt (OGC)
Sent: Friday, May 24, 2019 3:30 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Subject: Fwd: RFC 19001-Bristol Bay

Another inquiry.

Sent from my iPhone
Begin forwarded message:

From: Tim Stephens <Ex. 6 Personal Privacy (PP)>
Date: May 24, 2019 at 2:54:26 PM EDT
To: Quality@epa.gov
Cc: leopold.matthew@epa.gov
Subject: Re: RFC 19001-Bristol Bay

Typo *RFC was filed 11.15.2018*.

Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:
-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly

AMERICAN OVERSIGHT

from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses) Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:
Kindly following up.

Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:
Hello,

As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

--
-Tim S

--
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--
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AMERICAN OVERSIGHT

To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]
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Sent: Wed 6/5/2019 1:49:53 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

David - perhaps you can connect with matt on this?

Sent from my iPhone
Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Jun 5, 2019, at 9:23 AM, Stachowiak, Robert <Stachowiak.Robert@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Thanks,
R

Robert Stachowiak
U.S. Environmental Protection Agency
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AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

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Ex. 5 Deliberative Process (DP)

Carrie

Caroline (Carrie) Wehling
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U.S. Environmental Protection Agency

AMERICAN OVERSIGHT

Washington DC 20004
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Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: FW: RFC 19001-Bristol Bay

WLO folks – S Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

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Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel

CC: EPA/OGC/Water Law Office

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

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Subject: Fwd: RFC 19001-Bristol Bay

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Date: May 24, 2019 at 2:54:26 PM EDT
To: Quality@epa.gov
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Subject: Re: RFC 19001-Bristol Bay

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AMERICAN OVERSIGHT

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-Tim S

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-Tim S

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-Tim S

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Rich, Stephanie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9B67774F6DBE4E4DBE6BA8BB654106EA-RICH, STEPH]
Sent: Fri 3/22/2019 7:44:18 PM (UTC)
Subject: RE: One-time delegation
Bristol Bay one time delegation_SKR cw.docx

Hi David –

Please see our suggestions in the attached.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 3:35 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: Re: One-time delegation

Thank you!!

Sent from my iPhone
On Mar 22, 2019, at 3:00 PM, Rich, Stephanie <Rich.Stephanie@epa.gov> wrote:

> Hi David –
>
> Yes, Carrie and I are working on it and will you send you a revised version shortly.
>
> Stephanie Rich
> Attorney-Advisor
> Office of General Counsel
> Civil Rights and Finance Law Office
> U.S. Environmental Protection Agency
> WJCN 7409F (Mail Stop 2399A)
> 1200 Pennsylvania Ave, NW, Washington, DC 20004
> 202-564-4963
> Rich.stephanie@epa.gov
>
> ---
>
> **From:** Fotouhi, David
> **Sent:** Friday, March 22, 2019 2:39 PM
> **To:** Rich, Stephanie <Rich.Stephanie@epa.gov>
> **Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
> **Subject:** Re: One-time delegation
>
> Stephanie:

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Could you take a turn at revising the delegation accordingly? I'm in a meeting until 3:30, but please let me know if you have questions. We'd like to get a revised draft ASAP if that's possible. Thanks!

Sent from my iPhone
On Mar 22, 2019, at 11:29 AM, Rich, Stephanie <Rich.Stephanie@epa.gov> wrote:

> Hi David,
>
> This delegations looks fine to me. I made one comment in the attached. Let me know if you need any other assistance.
>
> Stephanie
>
> Stephanie Rich
> Attorney-Advisor
> Office of General Counsel
> Civil Rights and Finance Law Office
> U.S. Environmental Protection Agency
> WJCN 7409F (Mail Stop 2399A)
> 1200 Pennsylvania Ave, NW, Washington, DC 20004
> 202-564-4963
> Rich.stephanie@epa.gov
>
> ---
>
> **From:** Fotouhi, David
> **Sent:** Friday, March 22, 2019 10:01 AM
> **To:** Rich, Stephanie <Rich.Stephanie@epa.gov>
> **Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
> **Subject:** RE: One-time delegation
>
> DELIBERATIVE—DRAFT—DO NOT RELEASE
>
> Hi, Stephanie.
>
> Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

AMERICAN OVERSIGHT

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

<Bristol Bay one time delegation_SKR.docx>

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Fri 3/22/2019 6:25:56 PM (UTC)
Subject: RE: Delegation Memo

Can you step out and call?

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Fotouhi, David
Sent: Friday, March 22, 2019 2:25 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: Delegation Memo

Okay. Ex. 5 AC/DP

Ex. 5 AC/DP

Sent from my iPhone
On Mar 22, 2019, at 2:19 PM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

I've asked Stephanie to redraft.

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Fotouhi, David
Sent: Friday, March 22, 2019 2:17 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: Delegation Memo

Fully understood. Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP Happy to discuss.

Sent from my iPhone
On Mar 22, 2019, at 2:11 PM, Molina, Michael <molina.michael@epa.gov> wrote:

Ex. 5 AC/DP

MM

From: Fotouhi, David
Sent: Friday, March 22, 2019 1:48 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

AMERICAN OVERSIGHT

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

Hey David,

Matt told me to reach out to you about the delegation of authority memo.

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

To: Molina, Michael[molina.michael@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Fri 3/22/2019 6:13:13 PM (UTC)
Subject: RE: Delegation Memo

Ex. 5 AC/DP

Let me circle back quickly.

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Molina, Michael
Sent: Friday, March 22, 2019 2:11 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: Delegation Memo

Ex. 5 AC/DP

MM

From: Fotouhi, David
Sent: Friday, March 22, 2019 1:48 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

Hey David,

Matt told me to reach out to you about the delegation of authority memo.

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972

AMERICAN OVERSIGHT

Ex. 6 Personal Privacy (PP) (C)

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Rich, Stephanie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9B67774F6DBE4E4DBE6BA8BB654106EA-RICH, STEPH]
Sent: Fri 3/22/2019 3:29:43 PM (UTC)
Subject: RE: One-time delegation
Bristol Bay one time delegation_SKR.docx

Hi David,

This delegations looks fine to me. I made one comment in the attached. Let me know if you need any other assistance.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 10:01 AM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

DELIBERATIVE—DRAFT—DO NOT RELEASE

Hi, Stephanie.

Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976

HOUSE OVERSIGHT

fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
Cc: Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Cody, Meredith[cody.meredith@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Wehling, Carrie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: Tue 5/28/2019 1:22:08 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

Works for me. Thanks.

Sent from my iPhone

On May 28, 2019, at 9:17 AM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

I agree that since Matt decided OW should sign response to RFC it would make sense for them to respond to this as needed. Adding David.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Wehling, Carrie
Sent: Monday, May 27, 2019 9:37 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

This issue is a bit different since it's not generally about Pebble but about a Request for Correction. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Stachowiak, Robert
Sent: Friday, May 24, 2019 3:42 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: FW: RFC 19001-Bristol Bay

WLO folks – **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Sincerely,

AMERICAN OVERSIGHT

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel

CC: EPA/OGC/Water Law Office

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Leopold, Matt (OGC)
Sent: Friday, May 24, 2019 3:30 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Subject: Fwd: RFC 19001-Bristol Bay

Another inquiry.

Sent from my iPhone
Begin forwarded message:

> **From:** Tim Stephens Ex. 6 Personal Privacy (PP)
> **Date:** May 24, 2019 at 2:54:26 PM EDT
> **To:** Quality@epa.gov
> **Cc:** leopold.matthew@epa.gov
> **Subject: Re: RFC 19001-Bristol Bay**
>
> Typo *RFC was filed 11.15.2018*.
>
> Thanks in advance.
>
> On Fri, May 24, 2019 at 1:12 PM Tim Stephens < Ex. 6 Personal Privacy (PP) > wrote:
> -The RFC was filed 11.15.2019.
> -Follow up letter was sent to Administrator Wheeler 3.20.2019
> -The EPA published a response on 5.20.2019.
> -The interim response letter is dated 2.13.2019.
>
> Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses)
> Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.
>
> Thank you.
>
> On Wed, May 22, 2019 at 1:40 PM Tim Stephens < Ex. 6 Personal Privacy (PP) > wrote:
> Kindly following up.
>
> Thank you.
>
> On Mon, May 20, 2019 at 4:44 PM Tim Stephens < Ex. 6 Personal Privacy (PP) > wrote:

AMERICAN OVERSIGHT

Hello,

As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

--
-Tim S

--
-Tim S

--
-Tim S

--
-Tim S

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
From: Stern, Allyn[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2E2D6F5DF08D4E9ABBFF2C0880407775-STERN, ALLYN]
Sent: Wed 5/8/2019 5:09:18 PM (UTC)
Subject: Re: Bristol Bay Delegation

Excellent. Thanks!

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

> On May 8, 2019, at 9:40 AM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:
>
> Yes, please see attached.
>
> David Fotouhi
>
> Principal Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> -----Original Message-----
> From: Stern, Allyn
> Sent: Wednesday, May 8, 2019 11:59 AM
> To: Fotouhi, David <Fotouhi.David@epa.gov>
> Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
> Subject: Bristol Bay Delegation
>
> Hi David-
>
> Do you have a copy of the signed delegation of 404(c) authority to Matt? We never received the final version and think it would be good to have that prior to Matt's visit in June. We're prepping potential Q&As and since the delegation was reported in the news, it's definitely possible we may get questions about the scope of Matt's role in the decision making.
>
> Allyn Stern
> Regional Counsel
> US EPA Region 10
> 206-553-1223
> stern.allyn@epa.gov
> <Signed Delagation of Authority Pebble DA.pdf>

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: Molina, Michael[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D19C1D68DA1A4587866E1850F22A6AE5-MOLINA, MIC]
Sent: Wed 5/8/2019 4:15:06 PM (UTC)
Subject: RE: Delegation Memo
Signed Delagation of Authority Pebble DA.pdf

???

From: Fotouhi, David
Sent: Wednesday, May 8, 2019 12:13 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael.

Do you happen to have a copy of the finalized delegation to Matt on Bristol Bay/Pebble that you could send me? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 5:00 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

A revised version is attached; let me know if it fits the bill. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 2:20 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David

AMERICAN OVERSIGHT

Sent: Friday, March 22, 2019 2:17 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: Delegation Memo

Fully understood. Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP Happy to discuss.

Sent from my iPhone
On Mar 22, 2019, at 2:11 PM, Molina, Michael <molina.michael@epa.gov> wrote:

Ex. 5 AC/DP

MM

From: Fotouhi, David
Sent: Friday, March 22, 2019 1:48 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

Hey David,

Matt told me to reach out to you about the delegation of authority memo.

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Mon 3/25/2019 4:05:54 PM (UTC)
Subject: FW: Recusal and Delegation of Authority

FYI

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Abboud, Michael
Sent: Monday, March 25, 2019 12:04 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: RE: Recusal and Delegation of Authority

Matt –

Ex. 5 Deliberative Process (DP)

Call me if you have any questions.

Michael Abboud
U.S. Environmental Protection Agency
Office of Public Affairs
M: Ex. 6 Personal Privacy (PP)

From: Molina, Michael
Sent: Friday, March 22, 2019 5:33 PM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Konkus, John <konkus.john@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: FW: Recusal and Delegation of Authority

Monday is the plan. **Ex. 5 Deliberative Process (DP)**

MM

From: Molina, Michael
Sent: Friday, March 22, 2019 5:31 PM
To: Ex. 6 Administrator; Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Recusal and Delegation of Authority

Sir,

Attached is the signed updated Recusal and the complimentary Delegation of Authority pertaining to the Pebble Deposit Area.

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency

AMERICAN OVERSIGHT

Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]; Rich, Stephanie[Rich.Stephanie@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Wehling, Carrie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: Sun 3/24/2019 5:43:48 PM (UTC)
Subject: RE: One-time delegation
Revised Bristol Bay one time delegation_SKR cw2.docx

A few more suggestions, for precision. I would like Heidi to review on Monday, since this is in her area of expertise.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 4:39 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

Sorry—I realize that my edits weren't sufficiently precise. Please take a look at the attached and let me know your thoughts.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 4:27 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

Thanks so much for the quick turnaround. **Ex. 5 AC/DP** **Ex. 5 AC/DP** Could you take a look at the attached version (where I've made some tweaks) and let me know if you have any thoughts or concerns ASAP? If you're available by phone, I can talk before 5:00. Thank you!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 3:44 PM

AMERICAN OVERSIGHT

To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

Hi David –

Please see our suggestions in the attached.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

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Sent: Friday, March 22, 2019 3:35 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
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Thank you!!

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> Hi David –
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> Yes, Carrie and I are working on it and will you send you a revised version shortly.
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> **Subject:** Re: One-time delegation
>
> Stephanie:

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP) Could you take a turn at revising the delegation accordingly? I'm in a meeting until 3:30, but please let me know if you have questions. We'd like to get a revised draft ASAP if that's possible. Thanks!

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> 202-564-4963
> Rich.stephanie@epa.gov
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> ---
>
> **From:** Fotouhi, David
> **Sent:** Friday, March 22, 2019 10:01 AM
> **To:** Rich, Stephanie <Rich.Stephanie@epa.gov>
> **Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
> **Subject:** RE: One-time delegation
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> DELIBERATIVE—DRAFT—DO NOT RELEASE
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> Hi, Stephanie.
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> Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

AMERICAN OVERSIGHT

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich
Attorney-Advisor
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Sent: Thursday, March 21, 2019 8:48 PM
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Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

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<Bristol Bay one time delegation_SKR.docx>

AMERICAN OVERSIGHT

To: Rich, Stephanie[Rich.Stephanie@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Neugeboren, Steven[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: Sat 3/23/2019 12:59:39 AM (UTC)
Subject: RE: One-time delegation

Sorry folks but wasn't able to focus on this today. Nothing jumps out at me but Heidi was on leave today so just wanna make sure she has a chance to weigh in. thanks

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Rich, Stephanie
Sent: Friday, March 22, 2019 4:47 PM
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Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
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Ex. 5 AC/DP

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

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Tel: +1 202.564.1976
fotouhi.david@epa.gov

<Bristol Bay one time delegation_SKR.docx>

AMERICAN OVERSIGHT

To: Dennis, Allison[Dennis.Allison@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Forsgren, Lee[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A055D7329D5B470FBAA9920CE1B68A7D-FORSGREN, D]
Sent: Thur 1/31/2019 5:47:41 PM (UTC)
Subject: RE: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
McClatchy News Inquiry R10 draft response 1-31-2019 with DLF comments.docxADJG (002).docx

Allison,

Attached are my comments on the Draft responses but we should definitely wait for OGC to take a look as well. Am sending them to David Fotouhi for OGC review.

Thanks,
Lee

From: Dennis, Allison
Sent: Wednesday, January 30, 2019 1:47 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: FW: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

For your review. I'm also walking over a hard copy. This now also reflects John's input.

From: Dennis, Allison
Sent: Wednesday, January 30, 2019 11:11 AM
To: Goodin, John <Goodin.John@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Santell, Stephanie <Santell.Stephanie@epa.gov>
Subject: FW: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

R10 rec'd a media inquiry re: Pebble and has put together the attached proposed responses (see my suggested edits in track changes). This is due to the reporter tomorrow and I still need to run our final answers by OPA.
Also, here's a bit more about this reporter's angle:

. This story will launch ahead of the Corps of Engineers Pebble Mine EIS on Feb. 22. They are doing a deep dive to show how we got here, the current mine plan, stakeholders' concerns and views, and Pebble Partnership's involvement in this process with leadership at EPA and the Corps.

From: Skadowski, Suzanne
Sent: Wednesday, January 30, 2019 10:23 AM
To: Dennis, Allison <Dennis.Allison@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

Hi Allison,

Our draft responses to the McClatchy inquiry are attached. This information has been compiled from various existing publicly available documents and from our website.

Please coordinate with your team, OPA and others as needed. Please send any questions or changes back to me as well. I am happy to send the final response back to this reporter, as she reached out to me for a background conversation.

Thank you!

Suzanne

AMERICAN OVERSIGHT

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Dennis, Allison
Sent: Tuesday, January 29, 2019 1:39 PM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: Re: FYI MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31

That works ! No need to send me anything now

Sent from my iPhone
On Jan 29, 2019, at 4:32 PM, Skadowski, Suzanne <Skadowski.Suzanne@epa.gov> wrote:

> We have a pretty solid draft response, but I'm waiting for our attorney's input (Ashley P). Hoping to send to you end of day or crack of dawn tomorrow. It will be a quick turnaround I know. I let the reporter know that the new draft EIS launch date is now Feb. 22, not Jan. 31, so hopefully the urgency is lessened. I can send you the rough draft/don't share now if you're eager, otherwise I'll send your our draft for wide review as soon as it's done.
>
> ---
>
> **From:** Dennis, Allison
> **Sent:** Tuesday, January 29, 2019 1:23 PM
> **To:** Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
> **Subject:** RE: FYI MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
>
> Any updates on this one?
>
> ---
>
> **From:** Skadowski, Suzanne
> **Sent:** Monday, January 28, 2019 6:26 PM
> **To:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Lynn, Tricia <lynn.tricia@epa.gov>; Press <Press@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>
> **Cc:** Holsman, Marianne <Holsman.Marianne@epa.gov>
> **Subject:** FYI MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
> **Importance:** High
>
> Just FYI for now. We're working on draft answers to send to HQ. Just wanted to give you early heads up.
>
> *Suzanne Skadowski*
> *Public Affairs Specialist | Media Relations*
> *U.S. Environmental Protection Agency*
> *Region 10 Pacific Northwest - Seattle*
> *O: 206-553-2160 C:* Ex. 6 Personal Privacy (PP)
> *Follow us on Twitter! @EPAnorthwest*
> *Like us on Facebook! @eparegion10*
>
> ---
>
> **From:** Skadowski, Suzanne
> **Sent:** Monday, January 28, 2019 3:22 PM
> **To:** Allnutt, David <Allnutt.David@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>
> **Cc:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>
> **Subject:** MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
> **Importance:** High
>
> Hello and welcome back all!

AMERICAN OVERSIGHT

I need your help with the Qs below. Once we have draft answers we're happy with, I'll work w/ HQ on final. I talked with this reporter on background this morning to help get her up to speed.

Reporter wants to attribute/quote answers to questions below. I've attached the Qs and some proposed As in the attached doc.

Thanks!
Suzanne

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
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Like us on Facebook! @eparegion10

From: Rennie, Julianna <jrennie@mcclatchydc.com>
Sent: Monday, January 28, 2019 1:02 PM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: Re: FW: Media questions about Pebble Mine

Hi, Suzanne:

Thank you so much for chatting with me earlier today! Here are some of the questions that I would like EPA to comment on:

1. Other than in 2014 for the Pebble Project, has the EPA ever preemptively issued a proposed determination? Why did the EPA feel that it was necessary to do so for this project?

2. Why did Pruitt suspend the process to withdraw the proposed determination? Do you have any data from that comment period? (How many comments were submitted? Were they primarily in favor or opposition?)

3. Please comment on the timeline for the EIS. Is the EPA concerned about the accelerated timeline? How has Trump's emphasis on streamlined permitting influenced that decision?

4. If the Army Corps releases a favorable EIS but the proposed determination has not been withdrawn or finalized, then what happens?

5. If the Army Corps does issue a permit, can the EPA still block the project using 404c after the permit is granted?

Please let me know if you have any questions. I really appreciate all of your help!

Best,
Julianna

On Mon, Jan 28, 2019 at 2:41 PM Skadowski, Suzanne <Skadowski.Suzanne@epa.gov> wrote:

Hi Julianna,

Thanks for reaching out. I'm the main communications contact for EPA's work around the Pebble Mine.

Please give me a call when you get a chance, or send your questions by email.

Thanks!

Suzanne

Suzanne Skadowski

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Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Rennie, Julianna <jrennie@mcclatchydc.com>
Sent: Friday, January 11, 2019 12:14 PM
To: MacIntyre, Mark <Macintyre.Mark@epa.gov>
Subject: Media questions about Pebble Mine

Hi, Mr. MacIntyre:
I'm a reporter for McClatchy and I'm working on an article about the Pebble Mine project. Would you be available to answer a few questions about the EPA's involvement with project? Feel free to give me a call at (704) 491-4996 when you return to the office.

Best,
Julianna

Julianna Rennie
Congressional Reporter
McClatchy DC
jrennie@mcclatchydc.com
(704) 491-4996

AMERICAN OVERSIGHT

Thu Dec 06 11:22:02 EST 2018
CMS.OEX@epamail.epa.gov
FW: Correspondence from The Pebble Partnership
To: "cms.oex@domino.epamail.epa.gov" <cms.oex@domino.epamail.epa.gov>

From: Hope, Brian
Sent: Thursday, December 6, 2018 4:22:00 PM (UTC+00:00) Monrovia, Reykjavik
To: CMS.OEX
Subject: FW: Correspondence from The Pebble Partnership

Reading File

From: Sandi Colantuoni <sandi.colantuoni@pebblepartnership.com>
Sent: Thursday, December 06, 2018 10:18 AM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: Correspondence from The Pebble Partnership

Attached please find correspondence from Thomas Collier at The Pebble Partnership. Thank you.

Sandi Colantuoni

Executive Assistant

The Pebble Partnership

202.629.3397

AMERICAN OVERSIGHT

THE pebble PARTNERSHIP

December 5, 2018

The Honorable Andrew Wheeler
Acting Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Acting Administrator Wheeler,

I am writing on behalf of the Pebble Limited Partnership ("PLP") to formally request that the Environmental Protection Agency ("EPA") withdraw *Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act* (July 2014) ("Proposed Determination"), which aims to restrict the discharge of dredged or fill material related to the Pebble deposit in southwest Alaska. The Pebble Mine has the potential to produce substantial amounts of copper, molybdenum, and gold, and is expected to create thousands of jobs in the Bristol Bay region of Alaska. Equally as important, PLP has invested heavily into planning a mine that will operate safely and not pose a threat to Bristol Bay's valuable waters and fisheries.

Despite this, in 2014, EPA invoked its authority under Section 404(c) of the Clean Water Act to veto any proposed development by PLP *before* PLP had even filed for a permit application under Section 404 and *before* EPA had undertaken any scientific analysis of the potential project. But Section 404(c) does *not* authorize such a "preemptive" veto. Indeed, EPA had never before, or since, exercised its Section 404(c) authority preemptively. In every other case in which EPA has invoked its Section 404(c) authority, it has done so following the submission of a permit application and the completion of a thorough evaluation of that permit application under the National Environmental Policy Act ("NEPA"), as required by the Clean Water Act.

Seeking to fulfill the prior Administration's activist agenda, EPA ignored its statutory charge in an effort to halt any development project that it deemed, without any scientific analysis at all, to have any environmental impact. This extreme, activist approach to environmental regulation is not only misguided and unauthorized, it also runs counter to this Administration's stated policy of allowing for a full, fair, and open permit application process by the U.S. Army Corps of Engineers ("USACE") before deciding whether to issue a development permit. In fact, the White House's February 2018 infrastructure proposal advocates removing EPA's veto authority *entirely* because a veto "creates significant uncertainty and delays permit decisions . . . [and] removing EPA's authority to veto a 404 permit would make the permitting process more efficient and predictable." And in June 2018, EPA announced that it would develop a proposed rulemaking to consider amending its regulations to eliminate the authority to issue vetoes before

AMERICAN OVERSIGHT

THE pebble PARTNERSHIP

a permit application is filed or after a permit issues. Despite these public proclamations, former EPA Administrator Scott Pruitt refused to withdraw the Proposed Determination earlier this year, leaving the Pebble Mine in peril and sending mixed signals to investors and developers.

This Administration has re-committed EPA to the rule of law in many important areas, such as the Clean Power Plan and the Waters of the United States Rule. These efforts have reintroduced regulatory certainty and invigorated investment while maintaining environmental protections. By withdrawing the Obama Administration's Pebble veto, EPA has a similar opportunity; the Agency should allow for its proposed rulemaking to proceed and provide Pebble with nothing more than the same treatment that other permit applicants will receive in an improved Clean Water Act regulatory scheme. In so doing, EPA can continue to protect the valuable Bristol Bay watershed without unnecessarily stymying a project with immense economic potential.

The Proposed Determination Should Be Withdrawn for the Very Reasons Underlying EPA's Proposed Rulemaking

While EPA's June 2018 memo directing the Section 404(c) rulemaking was a welcome step toward re-introducing certainty into the federal permitting process and thereby spurring further economic development, allowing the Obama Pebble veto to remain in place fundamentally undercuts this progress. Preemptive vetoes (those issued before a developer even submits a permit application to USACE) significantly hinder growth by serving as a regulatory cloud over companies' investment decisions. Indeed, in announcing its Section 404(c) rulemaking, EPA noted that one reason for the proposed rulemaking was its concern "that the mere potential of the EPA's use of its section 404(c) authority before or after the permitting process could influence investment decisions and chill economic growth by short-circuiting the permitting process."

As the Pebble case unfortunately proves, this concern is not abstract; PLP is feeling these chilling effects right now. To illustrate this harm, just consider the aftermath of former Administrator Pruitt's announcement that EPA would not withdraw the Proposed Determination: The Agency announced its decision on Friday, January 26, 2018, and by the next Monday, the stock of PLP's parent company, Northern Dynasty Minerals, was down 50%. And, just recently, Goldman Sachs issued a report recommending no investment in Pebble and highlighting EPA's suspension of the proposed withdrawal of the Proposed Determination. Although Administrator Pruitt stated that his "decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project," the market clearly interpreted the action otherwise.

These effects are not limited to Pebble. If left in place, the Obama EPA's precedent – that the Agency can pick and choose which projects are worthy of due process – will still cause companies to question whether to pursue development projects in the United States. Indeed,

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when EPA announced its intention to suspend the proposed withdrawal, the *Wall Street Journal* derided the move in a January 30, 2018, editorial titled "Pruitt's Bad Pebble Precedent," emphasizing the decision's likelihood to "undermine capital investment" and warning that future administrations could "take Mr. Pruitt's precedent and run with it" because it "makes the agency a superregulator able to kill any mine, pipeline, bridge or oil well before companies can make a case, and regardless of support by one of the 50 states." And hamstringing Pebble hurts other federal initiatives: Recent projections show demand for copper increasing, in large part due to its utility in green technology, a demand Pebble can help meet. These harms were all too common for businesses under the Obama Administration, but your EPA has an opportunity to reverse them and begin setting better precedent.

In fact, EPA can avoid these effects and begin to achieve some of the goals of the proposed rulemaking immediately. Withdrawing the Proposed Determination does not commit EPA to any outcome with regards to the ultimate permit application process for the Pebble Mine. Rather, such a move would merely assure that PLP receives the same fairness that the proposed rulemaking will establish for other project proponents. EPA described the potential regulations as "long-overdue" and bearing "the promise of increasing certainty for landowners, investors, businesses and entrepreneurs to make investment decisions while preserving EPA's authority to restrict discharges." PLP, which has invested nearly a billion dollars into exploration and planning, can also benefit from that increased certainty that will allow the company to further its plans to develop a project with immense economic potential for Alaska and the country.

EPA May Withdraw the Proposed Determination Immediately

When EPA suspended the process to withdraw the Proposed Determination, it said it intended to "at a future time" solicit public comment and information on whether to withdraw it. This statement is based on the erroneous belief that some further legal process is required to withdraw the veto. However, no such process is required.

The Proposed Determination adhered to EPA regulations requiring public comment and provided for public hearings regarding the proposed restrictions. *See* 40 C.F.R. § 231.3. Following any public comments or hearings, those regulations require *only* that within 30 days of the public hearing, or 15 days after expiration of the comment period (if no hearing is held), the EPA Regional Administrator either withdraw the Proposed Determination or prepare a Recommended Determination. If it is withdrawn, the Administrator has 10 days to notify the Regional Administrator if he intends to review such a withdrawal. *See* 40 C.F.R. § 231.5. If no such notice is given, the withdrawal becomes final. These timelines may be extended for good cause under 40 C.F.R. 231.8, and indeed EPA has extended these periods many times.

Thus, once EPA receives public comments and/or holds a hearing on a Proposed Determination, no further legal process is required. The regulation simply sets out certain

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timelines for the agency to make its internal decision. Because there has never before been a preemptive veto, there is no agency precedent that requires the agency to conduct any additional process to withdraw such a veto. And, even if EPA wants more comments than have been received on the Proposed Determination and suspended withdrawal thereof, the ongoing environmental impact statement process has provided for even more public involvement, including public comments, and the publication of a scoping report with additional information about the Pebble Mine.

Finally, withdrawing the Proposed Determination in no way limits future EPA action on the Pebble Mine, including a veto under Section 404(c). A withdrawal does not require taking a position on whether the project will or will not pose a risk to the environment, or that the Bristol Bay Watershed Assessment (a study the Obama EPA concocted to justify its decision to issue the Proposed Determination) is scientifically flawed, or that PLP should be granted a permit. EPA would still retain its statutory authority to review the project following the NEPA process and can, at that time, evaluate the merits of the project based on a full record.

Withdrawing the Proposed Determination Poses No Legal Risks

Though environmental groups may file suit to challenge EPA's withdrawal, these actions will not succeed. As non-parties to the permit application process, any suit by environmental groups would likely be brought under the Clean Water Act's citizen suit provision or the Administrative Procedure Act. However, these statutes only allow for judicial review of a *non-discretionary* duty. *See* 5 U.S.C. 701(a) (granting a court jurisdiction to review actions taken by an agency except to the extent "agency action is committed to agency discretion by law"); 33 U.S.C. § 1365 (citizen suits may be brought where there is an alleged "failure … to perform any act or duty under this Act which is not discretionary with the Administrator"). Thus, courts have repeatedly dismissed actions by environmental groups challenging 404(c) determinations because both Section 404(c) of the Clean Water Act and EPA's regulations make clear that the Agency's veto authority is discretionary.

Moreover, environmental groups suing EPA for withdrawing the Proposed Determination may also lack standing to bring such an action because withdrawal of a veto is a procedural step, not the final decision on the permit application; thus there is no harm to would-be plaintiffs. This is especially true here, since EPA has the authority to reissue a Proposed Determination at the conclusion of the EIS process and in accordance with the Clean Water Act.

* * *

Withdrawing the Proposed Determination immediately is thus fully in accordance with the law and this Administration's stated policies. But more importantly, it would signal a commitment to regulatory stability and consistency without sacrificing any environmental

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THE pebble PARTNERSHIP

protection. Since your appointment as EPA Acting Administrator, you have committed the Agency to returning to its core mission by focusing on the rule of law. By restoring order and fairness to the Pebble decision-making process, you have a tremendous opportunity to further that core mission.

Sincerely,

Tom Collier

Thomas C. Collier

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Jackson, Ryan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=38BC8E18791A47D88A279DB2FEC8BD60-JACKSON, RY]
Sent: Thur 12/20/2018 4:32:09 AM (UTC)
Subject: Re: Draft response to Pebble Limited Partnership letter

Ex. 5 Deliberative Process (DP)

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 Personal Privacy (PP)

On Dec 19, 2018, at 11:01 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

Matt, Ryan,

OGC staff shared with me the attached draft response to the latest letter that the Pebble Limited Partnership sent to the Administrator on December 5. My understanding is that the correspondence was controlled to Region 10 for a response. Staff informed me that Lee F. has approved the attached draft and that the R10 RA intends to sign it by Friday. I have a few minor comments regarding the wording of the draft. However, I wanted to flag this for you because it seems to me Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Please let me know if we should discuss.

Best,

David
<19-000-1541_Collier Draft Letter.docx>

<19-000-1541_Correspondence.pdf>

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Thur 12/20/2018 4:24:55 AM (UTC)
Subject: Re: Draft response to Pebble Limited Partnership letter

Thanks for flagging.

Sent from my iPhone

On Dec 19, 2018, at 11:01 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

> Matt, Ryan,
>
> OGC staff shared with me the attached draft response to the latest letter that the Pebble Limited Partnership sent to the Administrator on December 5. My understanding is that the correspondence was controlled to Region 10 for a response. Staff informed me that Lee F. has approved the attached draft and that the R10 RA intends to sign it by Friday. I have a few minor comments regarding the wording of the draft. However, I wanted to flag this for you because it seems to me **Ex. 5 Deliberative Process (DP)**
>
> Ex. 5 Deliberative Process (DP) Please let me know if we should discuss.
>
> Best,
>
> David
> <19-000-1541_Collier Draft Letter.docx>
>
> <19-000-1541_Correspondence.pdf>

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Wed 12/19/2018 9:15:07 PM (UTC)
Subject: RE: Draft response to Pebble Limited Partnership letter

I just heard from OW that Lee cleared the response letter today. OW staff have asked us to check with you to see if you can provide any feedback you may have by the end of this week so the Region can finalize the letter before the holiday.

Thanks,
Heidi

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Nalven, Heidi
Sent: Wednesday, December 19, 2018 2:57 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Draft response to Pebble Limited Partnership letter

Hi David,

Attached is Region 10's draft response to PLP's most recent incoming letter (also attached here). OW is sharing this version with Lee. It reflects OW review up through John Goodin. We wanted to make sure you were aware of the response and to see if you have any edits.

Thanks,
Heidi

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

AMERICAN OVERSIGHT

To: Cozad, David[Cozad.David@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Wed 12/5/2018 12:12:51 AM (UTC)
Subject: Re: Quick question

Have them call Ryan. Thanks

Sent from my iPhone

> On Dec 4, 2018, at 6:43 PM, Cozad, David <Cozad.David@epa.gov> wrote:
>
>
> Hi,
>
> Pebble Mine. R10 apparently has an issue that the RA will want to raise to front office sometime soon. Per Justina, Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

> Thanks
>
> Dave
>
>
> Sent from my iPhone

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Mon 12/3/2018 11:43:47 AM (UTC)
Subject: Re: 404(c)

Thank you

Sent from my iPhone

On Dec 3, 2018, at 12:10 AM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

Matt: Attached are two background documents—**Ex. 5 AC/DP** and the other on **Ex. 5 Deliberative Process (DP)** I've also attached a PDF of our 404(c) regulations.

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

<404(c) Framework.docx>

<Bristol Bay Background.docx>

<2004_10_21_wetlands_40cfrpart231.pdf>

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]; Brazauskas, Joseph[brazauskas.joseph@epa.gov]; Schwab, Justin[Schwab.Justin@epa.gov]
Cc: Palich, Christian[palich.christian@epa.gov]
From: Frye, Tony (Robert)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=58C08ABDFC1B4129A10456B78E6FC2E1-FRYE, ROBER]
Sent: Tue 12/18/2018 7:17:06 PM (UTC)
Subject: AAW Factsheets - OW

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Thanks

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Sheppard, Tracy[Sheppard.Tracy@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Tue 11/27/2018 8:01:22 PM (UTC)
Subject: Follow-up re: Bristol Bay Watershed Assessment IQA Request for Correction
RFC 20181114 Bristol Bay (003) - .pdf

Hi David,

Attached is the IQA request we mentioned last week at reg review. We checked in with Tracy, OGC's IQA expert, and she confirmed that there aren't any IQA regulations. OMB published guidance that the agency used to develop its guidelines. The guidelines provide a 90-day timeframe to respond to a request for correction (RFC).

Here is the process Tracy outlined in her email to me and Carrie:

Ex. 5 Deliberative Process (DP)

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 8/17/2018 4:29:05 PM (UTC)
Subject: RE:
Bristol Bay-Pebble Mine 404c.docx
2017-11-02--Bristol Bay Briefing.docx

Here is the most recent paper that OW prepared to brief Henry Darwin last month as well as a paper we used to brief the Administrator last November.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Leopold, Matt (OGC)
Sent: Friday, August 17, 2018 12:19 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject:

Can you forward the Pebble briefing paper? Thanks

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 9/13/2018 7:44:39 PM (UTC)
Subject: RE: Pebble Mine press query
Conservative Letter on Section 404(c).pdf

Will do. The letter is attached. If you're attending the WOTUS meeting at 4:00, I can talk after that meeting.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Thursday, September 13, 2018 3:15 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Fwd: Pebble Mine press query

David,
We should talk about this.

Lee

Sent from my iPhone
Begin forwarded message:

> **From:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>
> **Date:** September 13, 2018 at 3:12:59 PM EDT
> **To:** "Forsgren, Lee" <Forsgren.Lee@epa.gov>
> **Subject: Re: Pebble Mine press query**
>
> Ok. Come by when you're done with OWM.
> On Sep 13, 2018, at 3:08 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:
>
> > Don't leave without us talking about this.
> >
> > Sent from my iPhone
> > On Sep 13, 2018, at 2:42 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:
> >
> > > I'll check with OWOW. But am I right that **Ex. 5 Deliberative Process (DP)** ?
> > >
> > > ---
> > >
> > > **From:** Forsgren, Lee
> > > **Sent:** Thursday, September 13, 2018 2:35 PM
> > > **To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>
> > > **Subject:** Re: Pebble Mine press query
> > >
> > > That letter is not ringing a bell. Not saying we haven't got it but i don't think we have responded. We have also received a similar letter from several members of Congress.
> > >
> > > Sent from my iPhone
> > > On Sep 13, 2018, at 2:24 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:
> > >
> > > > Do we have this letter? If so, have we responded? Should we say that
> > > >
> > > > **Ex. 5 Deliberative Process (DP)**

AMERICAN OVERSIGHT

From: Lynn, Tricia
Sent: Thursday, September 13, 2018 2:22 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>
Subject: FW: Pebble Mine press query

Andrea—

Does the earlier statement (pasted below) work for this too, or is this something different?

Thanks,

Tricia

Ex. 5 Deliberative Process (DP)

From: Jones, Enesta
Sent: Thursday, September 13, 2018 2:18 PM
To: Press <Press@epa.gov>
Subject: FW: Pebble Mine press query

From: Lee, Stephen [mailto:stephenlee@bloombergenvironment.com]
Sent: Thursday, September 13, 2018 2:16 PM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Subject: Pebble Mine press query

Hi, Enesta.

I just heard from Americans from Tax Reform, which on Sept. 6 had sent a letter to EPA asking you to rescind the Obama-era proposed veto on Pebble Mine. Someone from ATR just said they expect EPA to take action "before the end of the month." Can you provide any timeline on that?

Best,

Stephen Lee
Reporter
Bloomberg Environment
Direct: 703-341-3698
Mobile: Ex. 6 Personal Privacy (PP)
Twitter: @sklee_ca
stephenlee@bloombergenvironment.com

AMERICAN OVERSIGHT

To: Drinkard, Andrea[Drinkard.Andrea@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Wed 7/11/2018 9:34:21 PM (UTC)
Subject: RE: Murkowski Call w/ AW

No problem!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Drinkard, Andrea
Sent: Wednesday, July 11, 2018 5:31 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: Murkowski Call w/ AW

Thank you so much. And apologies about the number of edits. I got it at the last minute and was in transit. I really appreciate you taking the time to look at it.

Sent from my iPhone
On Jul 11, 2018, at 5:27 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

> Please see my suggested additions and edits highlighted below. Please let me know if you have any questions.
>
> **David Fotouhi**
>
> Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> ---
>
> **From:** Drinkard, Andrea
> **Sent:** Wednesday, July 11, 2018 5:07 PM
> **To:** Palich, Christian <palich.christian@epa.gov>
> **Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> **Subject:** Re: Murkowski Call w/ AW
>
> **Here are the pebble TPs. I'm adding David F to take a look at the last bullet since it's about the 404c memo that we just put out. I know we're out of time but I want to make sure he's aware of this and has a chance to weigh in.**
>
> **Pebble Talking Points**

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Sent from my iPhone
On Jul 11, 2018, at 4:54 PM, Palich, Christian <palich.christian@epa.gov> wrote:

> Alaska MOU is the most important one for tomorrow based on my convo with her staff.
>
> Christian R. Palich
> *Deputy Associate Administrator*
> *Office of Congressional & Intergovernmental Affairs*
> *U.S Environmental Protection Agency*
> *O: 202.564.4944*
> *C:* Ex. 6 Personal Privacy (PP)
> *E: Palich.Christian@epa.gov*
>
> ---
>
> **From:** Drinkard, Andrea
> **Sent:** Wednesday, July 11, 2018 4:41 PM
> **To:** Palich, Christian <palich.christian@epa.gov>
> **Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
> **Subject:** RE: Murkowski Call w/ AW
>
> We're still tweaking Bristol Bay and the MOU TPs. In meantime, here's a one pager on fish grinding. Back to you ASAP.
>
> ---
>
> **From:** Palich, Christian
> **Sent:** Wednesday, July 11, 2018 4:27 PM
> **To:** Ross, David P <ross.davidp@epa.gov>

AMERICAN OVERSIGHT

Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Murkowski Call w/ AW

Hi All,

Thanks Dave. Need this asap team OW, has to get in Administrators binder by 4. Thank you.

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

From: Ross, David P
Sent: Wednesday, July 11, 2018 4:21 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Murkowski Call w/ AW

Thanks all. I'm recused on Pebble so please drop me from the response if it is substantive.

Sent from my iPhone
On Jul 11, 2018, at 1:46 PM, Palich, Christian <palich.christian@epa.gov> wrote:

> Thank you!
>
> Christian R. Palich
> Deputy Associate Administrator
> Office of Congressional Affairs
> C: Ex. 6 Personal Privacy (PP)
>
> Sent from my iPhone
> On Jul 11, 2018, at 1:42 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:
>
> > Yes, we'll pull this together. Back to you ASAP.
> >
> > Sent from my iPhone
> > On Jul 11, 2018, at 1:37 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:
> >
> > > I think Andrea can put them together with OWOW's help.
> > >
> > > Sent from my iPhone
> > > On Jul 11, 2018, at 6:11 PM, Palich, Christian <palich.christian@epa.gov> wrote:
> > >
> > > > Hi Team OW,
> > > >
> > > > Can I get one or two quick talking points on latest actions on below issues for a call with Senator Murkowski and the Administrator tomorrow? Thanks!

AMERICAN OVERSIGHT

- Fish Grinding
- Alaska MOU
- Bristol Bay/Pebble Mine

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Wed 7/11/2018 9:28:14 PM (UTC)
Subject: FW: Murkowski Call w/ AW

FYI

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Wednesday, July 11, 2018 5:27 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Palich, Christian <palich.christian@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Murkowski Call w/ AW

Please see my suggested additions and edits highlighted below. Please let me know if you have any questions.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Drinkard, Andrea
Sent: Wednesday, July 11, 2018 5:07 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: Murkowski Call w/ AW

Here are the pebble TPs. I'm adding David F to take a look at the last bullet since it's about the 404c memo that we just put out. I know we're out of time but I want to make sure he's aware of this and has a chance to weigh in.

Pebble Talking Points

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Sent from my iPhone
On Jul 11, 2018, at 4:54 PM, Palich, Christian <palich.christian@epa.gov> wrote:

Alaska MOU is the most important one for tomorrow based on my convo with her staff.

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

From: Drinkard, Andrea
Sent: Wednesday, July 11, 2018 4:41 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Murkowski Call w/ AW

We're still tweaking Bristol Bay and the MOU TPs. In meantime, here's a one pager on fish grinding. Back to you ASAP.

From: Palich, Christian
Sent: Wednesday, July 11, 2018 4:27 PM
To: Ross, David P <ross.davidp@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: RE: Murkowski Call w/ AW

Hi All,

Thanks Dave. Need this asap team OW, has to get in Administrators binder by 4. Thank you.

Christian R. Palich
Deputy Associate Administrator

AMERICAN OVERSIGHT

Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: Ex. 6 Personal Privacy (PP)
E: Palich.Christian@epa.gov

From: Ross, David P
Sent: Wednesday, July 11, 2018 4:21 PM
To: Palich, Christian <palich.christian@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Re: Murkowski Call w/ AW

Thanks all. I'm recused on Pebble so please drop me from the response if it is substantive.

Sent from my iPhone
On Jul 11, 2018, at 1:46 PM, Palich, Christian <palich.christian@epa.gov> wrote:

> Thank you!
>
> Christian R. Palich
> Deputy Associate Administrator
> Office of Congressional Affairs
> C: Ex. 6 Personal Privacy (PP)
>
> Sent from my iPhone
> On Jul 11, 2018, at 1:42 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:
>
> > Yes, we'll pull this together. Back to you ASAP.
> >
> > Sent from my iPhone
> > On Jul 11, 2018, at 1:37 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:
> >
> > > I think Andrea can put them together with OWOW's help.
> > >
> > > Sent from my iPhone
> > > On Jul 11, 2018, at 6:11 PM, Palich, Christian <palich.christian@epa.gov> wrote:
> > >
> > > > Hi Team OW,
> > > >
> > > > Can I get one or two quick talking points on latest actions on below issues for a call with Senator Murkowski and the Administrator tomorrow? Thanks!
> > > >
> > > > - Fish Grinding
> > > > - Alaska MOU
> > > > - Bristol Bay/Pebble Mine
> > > >
> > > > Christian R. Palich
> > > > *Deputy Associate Administrator*
> > > > *Office of Congressional & Intergovernmental Affairs*
> > > > *U.S Environmental Protection Agency*
> > > > *O: 202.564.4944*
> > > > *C:* Ex. 6 Personal Privacy (PP)
> > > > *E:* Palich.Christian@epa.gov

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

To: Bennett, Tate[Bennett.Tate@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 9/6/2018 8:55:26 PM (UTC)
Subject: Re: Conservative letter on Section 404(c)

Thanks

Sent from my iPhone

On Sep 6, 2018, at 3:37 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

Begin forwarded message:

From: Mike Palicz <mpalicz@atr.org>
Date: September 6, 2018 at 2:35:23 PM EDT
To: Elizabeth Tate Bennett <bennett.tate@epa.gov>, "Abboud, Michael" <abboud.michael@epa.gov>
Subject: Conservative letter on Section 404(c)

Tate and Mike,

I hope you are both doing well. Attached please find a coalition letter from 15 conservative groups urging Acting Administrator Wheeler to rescind the proposed veto ("proposed determination") on Pebble Mine in Southwest Alaska. While we applaud the June memo issued by former Administrator Pruitt, we believe the continuing existence of the proposed veto on Pebble Mine still sets a precedent for future administrations and undermines the reform intended in Pruitt's memo.

Please let me know if I can provide any additional information or answer any questions.

Best,

Mike Palicz
Federal Affairs Manager
Americans for Tax Reform

722 12th Street NW | Washington, DC 20005
203-417-9970 | www.atr.org | mpalicz@atr.org

<Conservative Letter on Section 404(c).pdf>

AMERICAN OVERSIGHT

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 5/30/2018 1:37:13 PM
To: Nalven, Heidi [Nalven.Heidi@epa.gov]
CC: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")

Sensitivity: Company Confidential

Thanks

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi
Sent: Tuesday, May 29, 2018 3:33 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Sensitivity: Confidential

Hi David - I talked to Carrie. T **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David
Sent: Tuesday, May 29, 2018 11:28 AM
To: Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Sensitivity: Confidential

Thanks. What if we change **Ex. 5 Deliberative Process (DP)**

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi
Sent: Tuesday, May 29, 2018 10:00 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Sensitivity: Confidential

AMERICAN OVERSIGHT

Thanks David. We were okay with your revisions Ex. 5 Deliberative Process (DP)

We wanted to flag Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Fotouhi, David
Sent: Friday, May 25, 2018 4:24 PM
To: Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Please take a look at my revisions tracked in the attached file and let me know your reactions Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP) Thanks.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Tuesday, May 22, 2018 4:36 PM

AMERICAN OVERSIGHT

To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Leopold, Matt <Leopold.Matt@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

David,

Ex. 5 Deliberative Process (DP)

Lee

From: Fontaine, Tim
Sent: Tuesday, May 22, 2018 3:31 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Spraul, Greg <Spraul.Greg@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Lee,

OGC has offered comments on three Calvert QFRs. Thought you would want to see the revisions. We will hold these until you have had a chance to review.

Tim Fontaine
EPA Office of Water
(202) 564-0318

From: Woods, Terry
Sent: Tuesday, May 22, 2018 2:16 PM
To: Fontaine, Tim <Fontaine.Tim@epa.gov>
Cc: Drummond, Laura <Drummond.Laura@epa.gov>; Spraul, Greg <Spraul.Greg@epa.gov>; King, RyanM <King.RyanM@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Hi Tim.....

Sorry here is the file. Thank you!

¸.•´¯`•.¸><((((º> .•´¯`•.><((((º>.•´¯`•.><((((º>.•´¯`•.

Terry Woods
Office of Water
Resource Management Staff
202-564-0326

AMERICAN OVERSIGHT

From: Grams, Bradley
Sent: Tuesday, May 22, 2018 10:08 AM
To: Drummond, Laura <Drummond.Laura@epa.gov>; Woods, Terry <Woods.Terry@epa.gov>; King, RyanM <King.RyanM@epa.gov>; Spraul, Greg <Spraul.Greg@epa.gov>
Cc: Villanueva, Edna <Villanueva.Edna@epa.gov>; Beg, Gul <Beg.Gul@epa.gov>; Cuscino, Glen <Cuscino.Glen@epa.gov>
Subject: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Hello OW Colleagues:

OGC just returned CAL 028-032 to the NPM with re-writes for consideration (see attached), as well as additional legal advice, and I asked that I re-clear with the Program.

Ex. 5 Attorney Client (AC)

In this case, OW can Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks so much!

Cheers,

Bradley R. Grams, Senior Media Analyst
Multi-Media Analysis Staff, Office of Budget
Office of the Chief Financial Officer

U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW (Mail Code: 2732A)
Washington, D.C. 20460

P: +1 (202) 564-2692
F: +1 (202) 564-1842
E: grams.bradley@epa.gov

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 5/4/2018 11:38:20 AM (UTC)
Subject: Fwd: Heads Up on Pebble Letter
image001.png
ATT00001.htm
image002.png
ATT00002.htm
image003.png
ATT00003.htm
Draft Pebble Letter and DC.pdf
ATT00004.htm

Sent from my iPhone

Begin forwarded message:

From: "Bennett, Tate" <Bennett.Tate@epa.gov>
Date: May 3, 2018 at 3:25:23 PM EDT
To: "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>
Subject: Fwd: Heads Up on Pebble Letter

Begin forwarded message:

From: "Small, Jeff" <Jeff.Small@mail.house.gov>
Date: May 3, 2018 at 9:42:21 AM EDT
To: "'ringel.aaron@epa.gov'" <ringel.aaron@epa.gov>, "'Rodrick.Christian@epa.gov'" <Rodrick.Christian@epa.gov>, "'Bennett.Tate@epa.gov'" <Bennett.Tate@epa.gov>, "'palich.christian@epa.gov'" <palich.christian@epa.gov>, "'konkus.john@epa.gov'" <konkus.john@epa.gov>, "'Gunasekara.mandy@epa.gov'" <Gunasekara.mandy@epa.gov>, "'Bowman.Liz@epa.gov'" <Bowman.Liz@epa.gov>
Subject: Heads Up on Pebble Letter

Hope you all are having a good week.

Wanted to give you a heads up on the attached letter regarding the Pebble Project that that will be going out this afternoon.

Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

AMERICAN OVERSIGHT

To: Schwab, Justin[Schwab.Justin@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 5/4/2018 11:37:52 AM (UTC)
Subject: Fwd: Heads Up on Pebble Letter
image001.png
ATT00001.htm
image002.png
ATT00002.htm
image003.png
ATT00003.htm
Draft Pebble Letter and DC.pdf
ATT00004.htm

Sent from my iPhone

Begin forwarded message:

From: "Bennett, Tate" <Bennett.Tate@epa.gov>
Date: May 3, 2018 at 3:25:23 PM EDT
To: "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>
Subject: Fwd: Heads Up on Pebble Letter

Begin forwarded message:

From: "Small, Jeff" <Jeff.Small@mail.house.gov>
Date: May 3, 2018 at 9:42:21 AM EDT
To: "'ringel.aaron@epa.gov'" <ringel.aaron@epa.gov>, "'Rodrick.Christian@epa.gov'" <Rodrick.Christian@epa.gov>, "'Bennett.Tate@epa.gov'" <Bennett.Tate@epa.gov>, "'palich.christian@epa.gov'" <palich.christian@epa.gov>, "'konkus.john@epa.gov'" <konkus.john@epa.gov>, "'Gunasekara.mandy@epa.gov'" <Gunasekara.mandy@epa.gov>, "'Bowman.Liz@epa.gov'" <Bowman.Liz@epa.gov>
Subject: Heads Up on Pebble Letter

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Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

AMERICAN OVERSIGHT

To: Bennett, Tate[Bennett.Tate@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 5/4/2018 11:37:38 AM (UTC)
Subject: Re: Heads Up on Pebble Letter

Thanks

Sent from my iPhone

On May 3, 2018, at 3:25 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

Begin forwarded message:

From: "Small, Jeff" <Jeff.Small@mail.house.gov>
Date: May 3, 2018 at 9:42:21 AM EDT
To: "'ringel.aaron@epa.gov'" <ringel.aaron@epa.gov>, "'Rodrick.Christian@epa.gov'" <Rodrick.Christian@epa.gov>, "'Bennett.Tate@epa.gov'" <Bennett.Tate@epa.gov>, "'palich.christian@epa.gov'" <palich.christian@epa.gov>, "'konkus.john@epa.gov'" <konkus.john@epa.gov>, "'Gunasekara.mandy@epa.gov'" <Gunasekara.mandy@epa.gov>, "'Bowman.Liz@epa.gov'" <Bowman.Liz@epa.gov>
Subject: Heads Up on Pebble Letter

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Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

<image001.png>

<image002.png>

<image003.png>

<Draft Pebble Letter and DC.pdf>

AMERICAN OVERSIGHT

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 6/13/2018 6:29:08 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: RE: Draft talking points

This looks good to me.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Leopold, Matt (OGC)
Sent: Wednesday, June 13, 2018 2:25 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Draft talking points
Importance: High

And additional edits?

DELIBERATIVE—DO NOT RELEASE

Draft talking points on CWA 404(c)

- **Ex. 5 Deliberative Process (DP)**

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Draft talking points on Bristol Bay/Pebble Mine

-
-
-
-

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 5/25/2018 8:24:05 PM
To: Nalven, Heidi [Nalven.Heidi@epa.gov]
CC: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Carrie Wehling [Wehling.Carrie@epa.gov]
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Attachments: DF edits to_CAL - 028-032_OGC Comments.docx

Importance: High
Sensitivity: Company Confidential

Please take a look at my revisions tracked in the attached file and let me know your reactions. Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP) Thanks.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Tuesday, May 22, 2018 4:36 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Leopold, Matt <Leopold.Matt@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

David,

Ex. 5 Deliberative Process (DP)

Lee

From: Fontaine, Tim
Sent: Tuesday, May 22, 2018 3:31 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Spraul, Greg <Spraul.Greg@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Lee,

OGC has offered comments on three Calvert QFRs. Thought you would want to see the revisions. We will hold these until you have had a chance to review.

Tim Fontaine

AMERICAN OVERSIGHT

EPA Office of Water
(202) 564-0318

From: Woods, Terry
Sent: Tuesday, May 22, 2018 2:16 PM
To: Fontaine, Tim <Fontaine.Tim@epa.gov>
Cc: Drummond, Laura <Drummond.Laura@epa.gov>; Spraul, Greg <Spraul.Greg@epa.gov>; King, RyanM <King.RyanM@epa.gov>
Subject: FW: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Hi Tim.....

Sorry here is the file. Thank you!

¸.•´¯`•.¸><((((º> .•´¯`•.><((((º>.•´¯`•.><((((º>.•´¯`•.

Terry Woods
Office of Water
Resource Management Staff
202-564-0326

From: Grams, Bradley
Sent: Tuesday, May 22, 2018 10:08 AM
To: Drummond, Laura <Drummond.Laura@epa.gov>; Woods, Terry <Woods.Terry@epa.gov>; King, RyanM <King.RyanM@epa.gov>; Spraul, Greg <Spraul.Greg@epa.gov>
Cc: Villanueva, Edna <Villanueva.Edna@epa.gov>; Beg, Gul <Beg.Gul@epa.gov>; Cuscino, Glen <Cuscino.Glen@epa.gov>
Subject: OGC QFR Return w/ Comments: CAL 028-032 ("Clean Water Act Preemptive Vetoes")
Importance: High
Sensitivity: Confidential

Hello OW Colleagues:

OGC just returned CAL 028-032 to the NPM with re-writes for consideration (see attached), as well as additional legal advice, and I asked that I re-clear with the Program.

Ex. 5 Attorney Client (AC)

In this case, OW can provide Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks so much!

Cheers,

Bradley R. Grams, Senior Media Analyst
Multi-Media Analysis Staff, Office of Budget
Office of the Chief Financial Officer

U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW (Mail Code: 2732A)
Washington, D.C. 20460

AMERICAN OVERSIGHT

P: +1 (202) 564-2692
F: +1 (202) 564-1842
E: grams.bradley@epa.gov

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/10/2018 9:24:01 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]

Subject: Accepted: Call with ATR re Pebble Mine
Location: The conference phone number: Ex. 6 Personal Privacy (PP)

Start: 3/12/2018 7:30:00 PM
End: 3/12/2018 8:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/14/2018 5:24:19 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay comment period
Location: 3219B WJCE Call in **Ex. 6 Personal Privacy (PP)**

Start: 3/16/2018 8:30:00 PM
End: 3/16/2018 9:15:00 PM

Recurrence: (none)

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/1/2018 1:22:49 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/9/2018 5:44:51 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]
Subject: RE: Call with ATR re Pebble Mine

I'm on the other line—can I call you later?

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Bennett, Tate
Sent: Friday, March 9, 2018 12:44 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

I got you!

From: Fotouhi, David
Sent: Friday, March 9, 2018 12:44 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

Even better!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Bennett, Tate
Sent: Friday, March 9, 2018 12:44 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

I just shot them an email! 3:30 can work!

From: Fotouhi, David
Sent: Friday, March 9, 2018 12:43 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

Okay, got it. Don't move the time—I'll make it work on my end.

AMERICAN OVERSIGHT

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Bennett, Tate
Sent: Friday, March 9, 2018 12:42 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

Americans for Tax Reform. I'll explain offline but it's regarding an article they are writing for Forbes that will be critical of our recemt;y decision. They were going to print today but are letting us speak to them on background first now before it goes to print. I'll see what I can do, but we may have to keep this time.

From: Fotouhi, David
Sent: Friday, March 9, 2018 12:40 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: Call with ATR re Pebble Mine

I have a call with DOJ at this time. Is there any flexibility to do it at 3:00 or 3:30? Also, who is ATR?

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

-----Original Appointment-----
From: Bennett, Tate
Sent: Friday, March 9, 2018 12:38 PM
To: Bowman, Liz; Fotouhi, David
Subject: Call with ATR re Pebble Mine
When: Monday, March 12, 2018 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: The conference phone number: **Ex. 6 Personal Privacy (PP)**

The conference phone number **Ex. 6 Personal Privacy (PP)**
Participant code **Ex. 6 Personal Privacy (PP)**

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 2/13/2018 6:34:06 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WjCE Call in **Ex. 6 Personal Privacy (PP)**

Start: 3/6/2018 7:00:00 PM
End: 3/6/2018 8:00:00 PM

Recurrence: (none)

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/9/2018 5:43:26 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]

Subject: Accepted: Call with ATR re Pebble Mine
Location: The conference phone number: Ex. 6 Personal Privacy (PP)

Start: 3/12/2018 8:00:00 PM
End: 3/12/2018 8:30:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 2/12/2018 7:04:43 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]

Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WjCE Call in **Ex. 6 Personal Privacy (PP)**

Start: 3/6/2018 8:00:00 PM
End: 3/6/2018 9:00:00 PM

Recurrence: (none)

AMERICAN OVERSIGHT

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 2/12/2018 6:53:43 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]
Subject: Re: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Lee: **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP) Thanks.

Sent from my iPhone

On Feb 12, 2018, at 1:49 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

<mime-attachment.ics>
<R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx>

AMERICAN OVERSIGHT

Appointment

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 7/25/2019 4:58:01 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]

Subject: Accepted: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM

Recurrence: (none)

AMERICAN OVERSIGHT

To: Brightbill, Jonathan (ENRD)[Jonathan.Brightbill@usdoj.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Tue 7/30/2019 4:53:08 PM (UTC)
Subject: FW: Signed this morning EPA-R10-OW-2017-0369
07302019 EPA-R10-OW-2017-0369 Notice to Withdraw Pebble Deposit Area, SW Alaska.pdf

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Stern, Allyn <Stern.Allyn@epa.gov>
Sent: Tuesday, July 30, 2019 11:48 AM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov
Begin forwarded message:

> **From:** "Gahner, Pamela" <gahner.pamela@epa.gov>
> **Date:** July 30, 2019 at 7:56:19 AM PDT
> **To:** "Stern, Allyn" <Stern.Allyn@epa.gov>
> **Cc:** "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
> **Subject: Signed this morning EPA-R10-OW-2017-0369**
>
> Signed this morning, please see attached.
>
> Sincerely,
>
> ———
>
> ———

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Tue 7/30/2019 4:10:25 PM (UTC)
Subject: FW: Signed this morning EPA-R10-OW-2017-0369
image003.png
ATT00001.htm
07302019 EPA-R10-OW-2017-0369 Notice to Withdraw Pebble Deposit Area, SW Alaska.pdf
ATT00002.htm

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Stern, Allyn <Stern.Allyn@epa.gov>
Sent: Tuesday, July 30, 2019 11:48 AM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov
Begin forwarded message:

> **From:** "Gahner, Pamela" <gahner.pamela@epa.gov>
> **Date:** July 30, 2019 at 7:56:19 AM PDT
> **To:** "Stern, Allyn" <Stern.Allyn@epa.gov>
> **Cc:** "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
> **Subject: Signed this morning EPA-R10-OW-2017-0369**
>
> Signed this morning, please see attached.
>
> Sincerely,
>
> _____
>
> _____

AMERICAN OVERSIGHT

To: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
Cc: Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Mon 7/29/2019 3:31:21 AM (UTC)
Subject: RE: Pebble Notice
DF edits to Withdrawal of 2014 Proposed Determination_072619.docx

DELIBERATIVE

Very nice work on this draft. I've tracked a handful of edits and one comment in the attached version. Thank you!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Leopold, Matt (OGC)
Sent: Friday, July 26, 2019 11:41 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: Re: Pebble Notice

Thank you.

Sent from my iPhone
On Jul 26, 2019, at 7:44 PM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

> Matt and David,
>
> I have attached the latest clean draft of the Bristol Bay PD withdrawal notice that reflects your most recent feedback. I understand that you will be transmitting a draft of the notice to Chris and Lee separately. As discussed earlier today with David, copying Allyn as well.
>
> Heidi thank you for all of your work on this. Have a good weekend all.
>
> Steve
>
> Steve Neugeboren
> Associate General Counsel for Water
> U.S. EPA
> 1200 Pennsylvania Ave., NW
> Washington, DC 20460
> 202 (564-5488)
>
> <Withdrawal of 2014 Proposed Determination_072619.docx>

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
Cc: Mutz, John (Fletcher)[mutz.john@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Tue 6/25/2019 6:58:25 PM (UTC)
Subject: FW: Options and Considerations related to 404(q) MOA issue in 404 Pebble Mine letter
Options and Considerations related to 404(q).docx

Matt, FYI, please see below and attached.

Fletcher, please include in Matt's notebook this evening. Thank you!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi
Sent: Tuesday, June 25, 2019 1:46 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Options and Considerations related to 404(q) MOA issue in 404 Pebble Mine letter

Hi David,

Attached is a paper developed by the 404 team that addresses options and considerations relating to the 404(q) MOA for the 404 Pebble Mine letter. As compared to previous briefing papers used, **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP) Please let us know if you have any questions.

Heidi

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

AMERICAN OVERSIGHT

To: Molina, Michael[molina.michael@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 5:48:26 PM (UTC)
Subject: RE: Delegation Memo
Bristol Bay one time delegation.docx

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

Hey David,

Matt told me to reach out to you about the delegation of authority memo.

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

To: Rich, Stephanie[Rich.Stephanie@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 5:37:38 PM (UTC)
Subject: RE: One-time delegation

Thanks so much!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 11:30 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

Hi David,

This delegations looks fine to me. I made one comment in the attached. Let me know if you need any other assistance.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 10:01 AM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

DELIBERATIVE—DRAFT—DO NOT RELEASE

Hi, Stephanie.

Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

To: Rich, Stephanie[Rich.Stephanie@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Carrie Wehling[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 2:00:44 PM (UTC)
Subject: RE: One-time delegation
Bristol Bay one time delegation.docx

DELIBERATIVE—DRAFT—DO NOT RELEASE

Hi, Stephanie.

Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

AMERICAN OVERSIGHT

From: Fotouhi, David
Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Molina, Michael[molina.michael@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Wed 5/8/2019 4:34:17 PM (UTC)
Subject: RE: Delegation Memo

Thanks so much!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Wednesday, May 8, 2019 12:15 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Delegation Memo

???

From: Fotouhi, David
Sent: Wednesday, May 8, 2019 12:13 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael.

Do you happen to have a copy of the finalized delegation to Matt on Bristol Bay/Pebble that you could send me? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 5:00 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

A revised version is attached; let me know if it fits the bill. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 2:20 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David
Sent: Friday, March 22, 2019 2:17 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: Delegation Memo

Fully understood. Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP Happy to discuss.

Sent from my iPhone
On Mar 22, 2019, at 2:11 PM, Molina, Michael <molina.michael@epa.gov> wrote:

Ex. 5 AC/DP

MM

From: Fotouhi, David
Sent: Friday, March 22, 2019 1:48 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

Hey David,

Matt told me to reach out to you about the delegation of authority memo.

AMERICAN OVERSIGHT

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 9:00:57 PM (UTC)
Subject: FW: Delegation Memo
Revised Bristol Bay one time delegation.docx

FYI

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 5:00 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

A revised version is attached; let me know if it fits the bill. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 2:20 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: Delegation Memo

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David
Sent: Friday, March 22, 2019 2:17 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: Delegation Memo

Fully understood. **Ex. 5 AC/DP**

Ex. 5 AC/DP

Ex. 5 AC/DP Happy to discuss.

AR/CAA OVERSIGHT

Sent from my iPhone
On Mar 22, 2019, at 2:11 PM, Molina, Michael <molina.michael@epa.gov> wrote:

Ex. 5 AC/DP

MM

From: Fotouhi, David
Sent: Friday, March 22, 2019 1:48 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Delegation Memo

Hi, Michael. Please see attached. This is ready to go from OGC's perspective. Let me know if you need anything else or have questions. Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Molina, Michael
Sent: Friday, March 22, 2019 12:21 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Delegation Memo

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Matt told me to reach out to you about the delegation of authority memo.

Also, I want to change telephone numbers with you…1976 is awesome

MM

Michael D. Molina
Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

To: Rich, Stephanie[Rich.Stephanie@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 8:39:10 PM (UTC)
Subject: RE: One-time delegation
Revised Bristol Bay one time delegation_SKR cw.docx

Sorry—I realize that my edits weren't sufficiently precise. Please take a look at the attached and let me know your thoughts.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 4:27 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

Thanks so much for the quick turnaround. **Ex. 5 AC/DP** **Ex. 5 AC/DP** Could you take a look at the attached version (where I've made some tweaks) and let me know if you have any thoughts or concerns ASAP? If you're available by phone, I can talk before 5:00. Thank you!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 3:44 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

Hi David –

Please see our suggestions in the attached.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004

AMERICAN OVERSIGHT

202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 3:35 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: Re: One-time delegation

Thank you!!

Sent from my iPhone
On Mar 22, 2019, at 3:00 PM, Rich, Stephanie <Rich.Stephanie@epa.gov> wrote:

> Hi David –
>
> Yes, Carrie and I are working on it and will you send you a revised version shortly.
>
> Stephanie Rich
> Attorney-Advisor
> Office of General Counsel
> Civil Rights and Finance Law Office
> U.S. Environmental Protection Agency
> WJCN 7409F (Mail Stop 2399A)
> 1200 Pennsylvania Ave, NW, Washington, DC 20004
> 202-564-4963
> Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 2:39 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: Re: One-time delegation

Stephanie:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Could you take a turn at revising the delegation accordingly? I'm in a meeting until 3:30, but please let me know if you have questions. We'd like to get a revised draft ASAP if that's possible. Thanks!

Sent from my iPhone
On Mar 22, 2019, at 11:29 AM, Rich, Stephanie <Rich.Stephanie@epa.gov> wrote:

> Hi David,
>
> This delegations looks fine to me. I made one comment in the attached. Let me know if you need any other assistance.
>
> Stephanie
>
> Stephanie Rich
> Attorney-Advisor
> Office of General Counsel
> Civil Rights and Finance Law Office

AMERICAN OVERSIGHT

U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Friday, March 22, 2019 10:01 AM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

DELIBERATIVE—DRAFT—DO NOT RELEASE

Hi, Stephanie.

Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich

AMERICAN OVERSIGHT

Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

From: Fotouhi, David
Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
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fotouhi.david@epa.gov

<Bristol Bay one time delegation_SKR.docx>

AMERICAN OVERSIGHT

To: Rich, Stephanie[Rich.Stephanie@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 8:26:59 PM (UTC)
Subject: RE: One-time delegation
Bristol Bay one time delegation_SKR cw.docx

Thanks so much for the quick turnaround. Ex. 5 AC/DP Ex. 5 AC/DP Could you take a look at the attached version (where I've made some tweaks) and let me know if you have any thoughts or concerns ASAP? If you're available by phone, I can talk before 5:00. Thank you!

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Office of General Counsel
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fotouhi.david@epa.gov

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Sent: Friday, March 22, 2019 3:44 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: One-time delegation

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Please see our suggestions in the attached.

Stephanie

Stephanie Rich
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Rich.stephanie@epa.gov

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Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: Re: One-time delegation

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AMERICAN OVERSIGHT

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Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

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> Hi David,
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>
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> **From:** Fotouhi, David
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> **Subject:** RE: One-time delegation
>
> DELIBERATIVE—DRAFT—DO NOT RELEASE
>
> Hi, Stephanie.

AMERICAN OVERSIGHT

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Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
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Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

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Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

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Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

AMERICAN OVERSIGHT

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

<Bristol Bay one time delegation_SKR.docx>

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Dennis, Allison[Dennis.Allison@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 1/31/2019 5:57:17 PM (UTC)
Subject: RE: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Edits to McClatchy News Inquiry R10 draft response 1-31-2019 with DLF comments.docxADJG (002).docx

I've tracked my edits in the attached version. I defer to you on whether to provide these responses or something less specific.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Thursday, January 31, 2019 12:48 PM
To: Dennis, Allison <Dennis.Allison@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31

Allison,

Attached are my comments on the Draft responses but we should definitely wait for OGC to take a look as well. Am sending them to David Fotouhi for OGC review.

Thanks,
Lee

From: Dennis, Allison
Sent: Wednesday, January 30, 2019 1:47 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: FW: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

For your review. I'm also walking over a hard copy. This now also reflects John's input.

From: Dennis, Allison
Sent: Wednesday, January 30, 2019 11:11 AM
To: Goodin, John <Goodin.John@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Santell, Stephanie <Santell.Stephanie@epa.gov>
Subject: FW: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

R10 rec'd a media inquiry re: Pebble and has put together the attached proposed responses (see my suggested edits in track changes). This is due to the reporter tomorrow and I still need to run our final answers by OPA.
Also, here's a bit more about this reporter's angle:

. This story will launch ahead of the Corps of Engineers Pebble Mine EIS on Feb. 22. They are doing a deep dive to show how we got here, the current mine plan, stakeholders' concerns and views, and Pebble Partnership's involvement in this process with leadership at EPA and the Corps.

From: Skadowski, Suzanne
Sent: Wednesday, January 30, 2019 10:23 AM
To: Dennis, Allison <Dennis.Allison@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>

AMERICAN OVERSIGHT

Cc: Holsman, Marianne <Holsman.Marianne@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

Hi Allison,

Our draft responses to the McClatchy inquiry are attached. This information has been compiled from various existing publicly available documents and from our website.

Please coordinate with your team, OPA and others as needed. Please send any questions or changes back to me as well. I am happy to send the final response back to this reporter, as she reached out to me for a background conversation.

Thank you!

Suzanne

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Dennis, Allison
Sent: Tuesday, January 29, 2019 1:39 PM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: Re: FYI MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31

That works ! No need to send me anything now

Sent from my iPhone
On Jan 29, 2019, at 4:32 PM, Skadowski, Suzanne <Skadowski.Suzanne@epa.gov> wrote:

> We have a pretty solid draft response, but I'm waiting for our attorney's input (Ashley P). Hoping to send to you end of day or crack of dawn tomorrow. It will be a quick turnaround I know. I let the reporter know that the new draft EIS launch date is now Feb. 22, not Jan. 31, so hopefully the urgency is lessened. I can send you the rough draft/don't share now if you're eager, otherwise I'll send your our draft for wide review as soon as it's done.
>
> ---
>
> **From:** Dennis, Allison
> **Sent:** Tuesday, January 29, 2019 1:23 PM
> **To:** Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
> **Subject:** RE: FYI MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
>
> Any updates on this one?
>
> ---
>
> **From:** Skadowski, Suzanne
> **Sent:** Monday, January 28, 2019 6:26 PM
> **To:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Lynn, Tricia <lynn.tricia@epa.gov>; Press <Press@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>
> **Cc:** Holsman, Marianne <Holsman.Marianne@epa.gov>
> **Subject:** FYI MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
> **Importance:** High
>
> Just FYI for now. We're working on draft answers to send to HQ. Just wanted to give you early heads up.
>
> *Suzanne Skadowski*
> *Public Affairs Specialist | Media Relations*

AMERICAN OVERSIGHT

U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Skadowski, Suzanne
Sent: Monday, January 28, 2019 3:22 PM
To: Allnutt, David <Allnutt.David@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>
Cc: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>
Subject: MEDIA INQUIRY: Pebble Mine -- McClatchy, DDL 1/31
Importance: High

Hello and welcome back all!

I need your help with the Qs below. Once we have draft answers we're happy with, I'll work w/ HQ on final. I talked with this reporter on background this morning to help get her up to speed.

Reporter wants to attribute/quote answers to questions below. I've attached the Qs and some proposed As in the attached doc.

Thanks!
Suzanne

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Rennie, Julianna <jrennie@mcclatchydc.com>
Sent: Monday, January 28, 2019 1:02 PM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: Re: FW: Media questions about Pebble Mine

Hi, Suzanne:

Thank you so much for chatting with me earlier today! Here are some of the questions that I would like EPA to comment on:

1. Other than in 2014 for the Pebble Project, has the EPA ever preemptively issued a proposed determination? Why did the EPA feel that it was necessary to do so for this project?

2. Why did Pruitt suspend the process to withdraw the proposed determination? Do you have any data from that comment period? (How many comments were submitted? Were they primarily in favor or opposition?)

3. Please comment on the timeline for the EIS. Is the EPA concerned about the accelerated timeline? How has Trump's emphasis on streamlined permitting influenced that decision?

4. If the Army Corps releases a favorable EIS but the proposed determination has not been withdrawn or finalized, then what happens?

5. If the Army Corps does issue a permit, can the EPA still block the project using 404c after the permit is granted?

Please let me know if you have any questions. I really appreciate all of your help!

AMERICAN OVERSIGHT

Best,
Julianna

On Mon, Jan 28, 2019 at 2:41 PM Skadowski, Suzanne <Skadowski.Suzanne@epa.gov> wrote:

Hi Julianna,

Thanks for reaching out. I'm the main communications contact for EPA's work around the Pebble Mine.

Please give me a call when you get a chance, or send your questions by email.

Thanks!

Suzanne

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Rennie, Julianna <jrennie@mcclatchydc.com>
Sent: Friday, January 11, 2019 12:14 PM
To: MacIntyre, Mark <Macintyre.Mark@epa.gov>
Subject: Media questions about Pebble Mine

Hi, Mr. MacIntyre:
I'm a reporter for McClatchy and I'm working on an article about the Pebble Mine project. Would you be available to answer a few questions about the EPA's involvement with project? Feel free to give me a call at (704) 491-4996 when you return to the office.

Best,
Julianna

Julianna Rennie
Congressional Reporter
McClatchy DC
jrennie@mcclatchydc.com
(704) 491-4996

AMERICAN OVERSIGHT

To: Nalven, Heidi[Nalven.Heidi@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 12/21/2018 2:17:30 AM (UTC)
Subject: RE: Draft response to Pebble Limited Partnership letter

Ex. 5 Deliberative Process (DP) Thanks!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi
Sent: Wednesday, December 19, 2018 2:57 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Draft response to Pebble Limited Partnership letter

Hi David,

Attached is Region 10's draft response to PLP's most recent incoming letter (also attached here). OW is sharing this version with Lee. It reflects OW review up through John Goodin. We wanted to make sure you were aware of the response and to see if you have any edits.

Thanks,
Heidi

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 12/13/2018 5:06:05 PM (UTC)
Subject: FW: FYI: Pebble Limited Partnership letter to EPA
19-000-1541_Correspondence.pdf

FYI

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi
Sent: Thursday, December 13, 2018 12:00 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FYI: Pebble Limited Partnership letter to EPA

Hi David – Attached as FYI is a recent letter the Pebble Limited Partnership sent to the Acting Administrator asking EPA to withdraw its proposed determination.

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

AMERICAN OVERSIGHT

To: Frye, Tony (Robert)[frye.robert@epa.gov]; Brazauskas, Joseph[brazauskas.joseph@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Palich, Christian[palich.christian@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Wed 12/19/2018 3:58:32 AM (UTC)
Subject: RE: AAW Factsheets - OW

Ex. 5 Deliberative Process (DP)

EPA's Prior Actions:

- In 2011—prior to the filing of a permit application with the Army Corps by the Pebble Limited Partnership ("PLP")—Region 10 began a risk assessment of mining of the Pebble Deposit.
- In July 2014, Region 10 issued a Watershed Assessment and a Proposed Determination to restrict the discharge of dredged and fill material from mining of the Pebble Deposit. Region 10 took public comment on the Proposed Determination (>670,000 comments received).
- Region 10's initiation of the section 404(c) process was unusual because it began before PLP submitted a permit application, which led observers to label the process as a "preemptive veto."

Litigation and Settlement Agreement:

- In 2014, PLP filed three lawsuits against EPA under the CWA, FOIA, and FACA. PLP obtained a preliminary injunction that halted the section 404(c) process until the FACA case was resolved. The CWA lawsuit was subsequently dismissed.
- In May 2017, EPA and PLP settled the FOIA and FACA suits, and the court subsequently dissolved the injunction.
- Under the settlement agreement, EPA agreed to "initiate a process to propose to withdraw the Proposed Determination." EPA has satisfied this obligation.
- EPA also agreed not to forward a Recommended Determination from Region 10 to EPA Headquarters until a final Environmental Impact Statement ("EIS") has been completed by the Army Corps, so long as that EIS is completed by May 2021.

Proposal to Withdraw the Proposed Determination:

- EPA published a proposal to withdraw the proposed determination on July 11, 2017; the public comment period and tribal consultations ended on October 17, 2017 (>1 million comments received).

Filing of the Permit Application:

- On December 22, 2017, PLP filed a section 404 permit application with the Army Corps.

Suspension of Proposed Withdrawal of the Proposed Determination:

- On January 26, 2018, EPA published a "Notification of Decision Not Withdraw Proposed Determination." The notice "suspend[ed] the proceeding to withdraw the Proposed Determination and leaves that Determination in place pending further consideration."
- The notice indicated that EPA "intends at a future time to solicit public comment on what further steps, if any, the Agency should take in the section 404(c) process in order to prevent unacceptable adverse effects to the watershed's world-class fisheries in light of the permit application that has now been submitted to the Corps."

Next Steps in the Permitting Process:

- The Corps has initiated the section 404 permit and NEPA review processes.
- To comply with NEPA, this project requires an EIS before the Corps makes a permit decision. The Corps anticipates completing a draft EIS in February 2019.
- The Corps cannot issue a permit while EPA's section 404(c) process is ongoing.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

From: Fotouhi, David
Sent: Tuesday, December 18, 2018 8:00 PM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>
Subject: RE: AAW Factsheets - OW

Ex. 5 Deliberative Process (DP)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Frye, Tony (Robert)
Sent: Tuesday, December 18, 2018 2:17 PM
To: Fotouhi, David <fotouhi.david@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>
Subject: AAW Factsheets - OW

Ex. 5 Deliberative Process (DP) Thanks

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Ryan Jackson (jackson.ryan@epa.gov)[jackson.ryan@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 12/20/2018 4:01:50 AM (UTC)
Subject: FW: Draft response to Pebble Limited Partnership letter
19-000-1541_Collier Draft Letter.docx
19-000-1541_Correspondence.pdf

Matt, Ryan,

OGC staff shared with me the attached draft response to the latest letter that the Pebble Limited Partnership sent to the Administrator on December 5. My understanding is that the correspondence was controlled to Region 10 for a response. Staff informed me that Lee F. has approved the attached draft and that the R10 RA intends to sign it by Friday. I have a few minor comments regarding the wording of the draft. However, I wanted to flag this for you because it seems to me Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Please let me know if we should discuss.

Best,

David

AMERICAN OVERSIGHT

To: Frye, Tony (Robert)[frye.robert@epa.gov]; Brazauskas, Joseph[brazauskas.joseph@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]
Cc: Palich, Christian[palich.christian@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Wed 12/19/2018 1:00:06 AM (UTC)
Subject: RE: AAW Factsheets - OW

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Frye, Tony (Robert)
Sent: Tuesday, December 18, 2018 2:17 PM
To: Fotouhi, David <fotouhi.david@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>
Subject: AAW Factsheets - OW

Ex. 5 Deliberative Process (DP) Thanks

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Mon 12/3/2018 5:10:16 AM (UTC)
Subject: 404(c)
404(c) Framework.docx
Bristol Bay Background.docx
2004_10_21_wetlands_40cfrpart231.pdf

PRIVILEGED—DELIBERATIVE—DO NOT RELEASE

Matt: Attached are two background documents—**Ex. 5 AC/DP** and the other **Ex. 5 Deliberative Process (DP)** I've also attached a PDF of our 404(c) regulations.

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Mon 11/26/2018 2:04:06 PM (UTC)
Subject: 404(c)
2017-11-02--Bristol Bay Briefing.docx
Bristol Bay-Pebble Mine 404c.docx
Draft straw timeline to propose withdrawal of EPA.DOCX

Hi, Matt. Please see attached; if these don't fit the bill, let me know.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: EPA Press Office[press@epa.gov]
Sent: Tue 7/30/2019 6:00:21 PM (UTC)
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) – Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

"After today's action EPA will focus on the permit review process for the Pebble Mine project" **said Region 10 Administrator Chris Hladick.** "The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014."

By withdrawing the 2014 Proposed Determination, which was issued preemptively and is now outdated, the agency can continue its focus on fulfilling its responsibilities under the Clean Water Act to work with the Army Corps to review the permit.

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process.

"Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**.

EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with

AMERICAN OVERSIGHT

lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

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AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/14/2018 5:19:47 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]

Subject: Bristol Bay comment period
Location: 3219B WJCE Call in Ex. 6 Personal Privacy (PP)

Start: 3/16/2018 8:30:00 PM
End: 3/16/2018 9:15:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/2/2018 8:27:43 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Location: 3233 WJCE Call i **Ex. 6 Personal Privacy (PP)**

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/14/2018 5:19:47 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]

Subject: Bristol Bay comment period
Location: 3219B WJCE Call in Ex. 6 Personal Privacy (PP)

Start: 3/16/2018 8:30:00 PM
End: 3/16/2018 9:15:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Penman, Crystal [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]
Sent: 3/2/2018 8:27:43 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in **Ex. 6 Personal Privacy (PP)**

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

This meeting is nontransferable.

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; hladick.christopher@epamail.epa.gov[hladick.christopher@epamail.epa.gov]
From: Loretta Brown[loretta@salmonstate.org]
Sent: Wed 7/10/2019 4:32:20 PM (UTC)
Subject: Request for Public Comment Period prior to action on 404(c) in Bristol Bay
SalmonState_RequestPublicComment_07102019.pdf

Dear Mr. Leopold and Mr. Hladick,

Please accept the attached letter and request for a Public Comment period prior to any action on the CWA 404(c) Proposed Determination in Bristol Bay, Alaska.

Thank you,
Loretta Brown

--
LORETTA BROWN
SalmonState
Cell Ex. 6 Personal Privacy (PP)
loretta@salmonstate.org

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AMERICAN OVERSIGHT

Message

From: Thomas Allen [thomas@markeallenlaw.com]
Sent: 7/10/2019 4:07:08 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]
Subject: RFC 19001 - Leopold's Memo

Hello,

Why has a decision still not been made regarding whether or not to withdraw the PD? Mr. Leopold clearly advised you Mr. Hladick to make a decision one way or another. So you just ignore him and say you are not making a decision?! This is criminal, unjust, and corrupt. Stop purposefully delaying this decision Mr. Hladick, you know what you are doing by keeping the uncertainty around Pebble. People on both sides deserve a decision on the PD sooner rather than later and the PD is illegal in that it doesn't conform to quality standards set by your own administration. Please make a decision soon Mr. Hladick and stop delaying, that is all I ask. Please follow NEPA and not the illegal BBWA. Is that too much to ask?

Respectfully,
Tom Allen

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT

To: Hladick, Christopher[hladick.christopher@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Mon 7/29/2019 2:15:33 PM (UTC)
Subject: FW: Pebble Notice
Withdrawal of 2014 Proposed Determination_072919.docx

DELIBERATIVE

FYI, the latest draft is attached.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nalven, Heidi <Nalven.Heidi@epa.gov>
Sent: Monday, July 29, 2019 9:45 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: RE: Pebble Notice

Attached is a clean version with all of your edits accepted. I added clarifying language to the sentence you flagged on page 12 to

Ex. 5 Deliberative Process (DP)

From: Fotouhi, David
Sent: Sunday, July 28, 2019 11:31 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: Pebble Notice

DELIBERATIVE

Very nice work on this draft. I've tracked a handful of edits and one comment in the attached version. Thank you!

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Leopold, Matt (OGC)
Sent: Friday, July 26, 2019 11:41 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: Re: Pebble Notice

Thank you.

Sent from my iPhone
On Jul 26, 2019, at 7:44 PM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

AMERICAN OVERSIGHT

Matt and David,

I have attached the latest clean draft of the Bristol Bay PD withdrawal notice that reflects your most recent feedback. I understand that you will be transmitting a draft of the notice to Chris and Lee separately. As discussed earlier today with David, copying Allyn as well.

Heidi thank you for all of your work on this. Have a good weekend all.

Steve

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

<Withdrawal of 2014 Proposed Determination_072619.docx>

AMERICAN OVERSIGHT

To: Hladick, Christopher[hladick.christopher@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Mon 7/29/2019 1:30:27 PM (UTC)
Subject: FW: Pebble Notice
Withdrawal of 2014 Proposed Determination_072619.docx

DELIBERATIVE

Hi, Chris. In case you haven't yet seen this, Matt asked that I share with you the latest draft of the Bristol Bay notice (which is attached to this e-mail). Staff are working on final tweaks and edits today. Let me know if you would like to discuss anything with Matt or me today. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Sent: Friday, July 26, 2019 7:44 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>
Subject: Pebble Notice

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Heidi thank you for all of your work on this. Have a good weekend all.

Steve

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

AMERICAN OVERSIGHT

Alaska Travel
Monday, June 10th – Friday, June 14th, 2019

INTERNAL DRAFT ITINERARY 5.16.19

TENTATIVE: Meeting times may be adjusted in each location

Trip Purpose: Visit Anchorage, Iliamna, and Dillingham to meet with the State of Alaska, tribal, ANCSA Corporation and fishing industry representatives to get acquainted with the broad spectrum of views on the Proposed Pebble Mine.

Monday Evening, June 10th – Fly to Anchorage

Hotel: Captain Cook (held by David Allnutt)

Flight: AK Airlines #AS187
Depart Seattle: 6:50PM
Arrive Anchorage: 9:30PM

Tuesday, June 11th – Anchorage

Overview: Meet with EPA Region 10 Alaska Ops Office, State of Alaska Department of Environmental Conservation (DEC) and Department of Natural Resources (DNR), Alaska Native Claims Settlement Act (ANCSA) Regional and Village Corporations

8AM- 9AM:

9AM-10AM: AOO All-Staff (highlight emerging and priority issues in Alaska, meet with EPA Region 10 Staff located in the Anchorage Ops Office)

10:30AM-11:30AM: State of Alaska – DNR & DEC Commissioners

12PM-1PM: Itinerary Walk Through & Meeting Prep

1:15PM – 5PM: Bristol Bay Alaska Native Claims Settlement Act Corporations Meetings
Proposed agenda for tentative meetings (yet to be confirmed) below:
Introductions
Opening Remarks – Matt Leopold, Lee Forsgren & Chris Hladick
Listening Session – ANCSA Corporations (potential concerns: way of life, environmental, regulatory, economic, process for consultation and public comment, invitations for Bristol Bay visits, etc.)
Closing Remarks – Matt Leopold, Lee Forsgren & Chris Hladick

Tentative Schedule
1:15PM – 2:15PM – Alaska Peninsula Corporation
2:30PM – 3:30PM – Iliamna Natives Limited
3:45PM– 4:45PM – Bristol Bay Native Corporation

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Bristol Bay/Pebble Mine 2019
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Wednesday, June 12th - Iliamna, AK

Objective: Meet with tribal and ANCSA Corporation representatives

8 am - 9:00 am	Flight from Anchorage to Iliamna Iliamna Air Taxi
9:30am – 12PM	Tribal Meetings (Iliamna Village Council, Newhalen Tribal Council, others TBD)

Proposed agenda for tentative meetings (yet to be confirmed) below:
Introductions
Opening Remarks – Matt Leopold, Lee Forsgren & Chris Hladick
Listening Session – Tribal governments and ANCSA Corporations (potential concerns: way of life, environmental, regulatory, economic, process for consultation and public comment, invitations for Bristol Bay visits, etc.)
Closing Remarks – Matt Leopold, Lee Forsgren & Chris Hladick

12:00-1:30PM	**(Tentative Option)** Lunch & Driving Tour of Iliamna and Newhalen
2PM-3:30PM	Potential meetings (Iliamna Natives Limited, Lake Iliamna tribal governments, other ANCSA Village Corporations)

Proposed agenda for tentative meetings (yet to be confirmed) below:
Introductions
Opening Remarks – Matt Leopold, Lee Forsgren & Chris Hladick
Listening Session – Tribal governments and ANCSA Corporations (potential concerns: way of life, environmental, regulatory, economic, process for consultation and public comment, invitations for Bristol Bay visits, etc.)
Closing Remarks – Matt Leopold, Lee Forsgren & Chris Hladick

4PM	Check in at Iliamna Air
4:30 pm – 5:30 pm	Return Flight to Anchorage Iliamna Air Taxi

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Thursday, June 13th
Dillingham

Objectives: Meet with tribal and fishing industry representatives

Depart Anchorage: 6:45AM
Arrive Dillingham: 8:15AM
Alaska Airlines flight operated by Raven Air: Flight 940 (Bombardier Q200)

8:30AM: Driving tour of Dillingham (community challenges, fishing industry, Aleknagik Lake)

11AM to 12PM: Lunch with Alaska Native Leaders (Alaska Native foods)

12:30PM to 3:30PM: Meetings with Tribal Governments, Alaska Native Organizations, and Fishing Industry Representatives

Proposed agenda for tentative meetings
Introductions
Opening Remarks – Matt Leopold, Lee Forsgren & Chris Hladick
Listening Session – Potential concerns: way of life, environmental, regulatory, economic, process for consultation and public comment, invitations for Bristol Bay visits, etc.
Closing Remarks – Matt Leopold, Lee Forsgren & Chris Hladick

Ekwok Village Council
Curyung Tribal Council
United Tribes of Bristol Bay (*Member tribes represent fourteen of the Yup'ik, Denai'na, and Alutiq indigenous communities in Bristol Bay)*
Bristol Bay Economic Development Corporation
Bristol Bay Native Association
Bristol Bay Regional Seafood Development Association

Depart to Airport at 4PM

(Alaska Airlines Flight operated by Pennair)
Depart Dillingham: 6:05PM
Arrive Anchorage: 7:15PM
Pennair Air Flight 2056 (Saab 2000)

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Friday, June 14th

Travel Day (Return TDY) Individual travelers determine their flight home and inform their travel preparers.

Trip Notes

Additional Potential Stakeholders: Lake and Peninsula Borough, Nunamta Aulekestai, individual Bristol Bay/Lake Iliamna Tribes, City Governments (Dillingham, Iliamna), Kijik Corporation, Pedro Bay Village Corporation, Bristol Bay Fishermen (from Lake Iliamna area), Cook Inlet Stakeholders

Region 10 Participants: Chris Hladick, David Allnutt, Patty McGrath
HQ Participants: Matt Leopold, Lee Forsgren, Brittany Bennett, Russ Kaiser, + OGC(1)?

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EPA-19-1101-G-000277
Bristol Bay/Pebble Mine 2019
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To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Hladick, Christopher[hladick.christopher@epa.gov]
From: Pirzadeh, Michelle[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2AE309E0A52A42CD847709B39BC2239A-PIRZADEH, MICHELLE]
Sent: Wed 3/27/2019 7:36:29 PM (UTC)
Subject: FW: Bristol Bay 404c - CMS Alaska State Senate Leaders
19-000-2365_Draft Letter_Giessel Coghill Costello 3-27-19.docx

Hello David,

Chris asked me to send you the attached draft letter for your review and comments. I have added, and highlighted in yellow, the language regarding EPA's involvement in the EIS process per Ryan's request.

Thank you,

Michelle

Michelle L. Pirzadeh
Deputy Regional Administrator
U.S. Environmental Protection Agency, Region 10
Office: (206) 553-1234
Cell: Ex. 6 Personal Privacy (PP)
Fax: (206) 553-1809

From: Hladick, Christopher
Sent: Wednesday, March 27, 2019 9:07 AM
To: Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>
Subject: Fwd: Bristol Bay 404c - CMS Alaska State Senate Leaders

We need to put on the list for discussion

Sent from my iPhone
Begin forwarded message:

> **From:** "Fotouhi, David" <Fotouhi.David@epa.gov>
> **Date:** March 26, 2019 at 6:58:01 PM PDT
> **To:** "Hladick, Christopher" <hladick.christopher@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>
> **Cc:** "Forsgren, Lee" <Forsgren.Lee@epa.gov>
> **Subject: RE: Bristol Bay 404c - CMS Alaska State Senate Leaders**
>
> If you wouldn't mind sending me reworked versions of your team's drafts, I would be glad to review and revise as appropriate. Thanks, Chris.
>
> Best,
>
> David
>
> **David Fotouhi**
>
> Principal Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> ---
>
> **From:** Hladick, Christopher
> **Sent:** Tuesday, March 26, 2019 9:29 AM
> **To:** Jackson, Ryan <jackson.ryan@epa.gov>
> **Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> **Subject:** Re: Bristol Bay 404c - CMS Alaska State Senate Leaders

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Thanks:

So David are you working on that or should I mark up what we have and send to you and Lee for review.

Sent from my iPhone
On Mar 26, 2019, at 2:38 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 Personal Privacy (PP)

On Mar 4, 2019, at 9:22 PM, Hladick, Christopher <hladick.christopher@epa.gov> wrote:

Ryan:

We have a few of these requests to withdraw the PD. This one from Senate leadership from Alaska legislature. Also attached is a proposed response for your review.

Thanks
Chris

<19-000-2365_Correspondence.pdf>
<19-000-2365_Draft Letter_Giessel Coghill Costello.docx>

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To: Hladick, Christopher[hladick.christopher@epa.gov]; Wheeler, Andrew[wheeler.andrew@epa.gov]
From: Thomas Allen[thomas@markeallenlaw.com]
Sent: Mon 9/24/2018 8:11:06 PM (UTC)
Subject: FW: Tom Allen

Hello,

I find this form letter very disrespectful. Mr. Hladick had originally informed me to contact Erik if I had any further questions in a letter dated September 5, 2018. This is what Erik sent me below after I sent him the following questions below. I would hope I get a more clear response from one of you by the end of the day. I don't know if he is trying to dodge my questions, but I think they are fair ones to say the least.

Thank you for your time gentleman.

Sincerely,
Tom Allen

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

From: R10BristolBay <R10BristolBay@epa.gov>
Sent: Monday, September 24, 2018 2:46 PM
To: Thomas Allen <thomas@markeallenlaw.com>
Subject: RE: Tom Allen

Thank you for your inquiry to EPA Region 10 about the Bristol Bay Watershed. Information about EPA's activities related to Bristol Bay and the Pebble Mine can be found online at https://www.epa.gov/bristolbay. To learn more about the U.S. Army Corps of Engineers' process for the Pebble Project Environmental Impact Statement, visit https://www.pebbleprojecteis.com.

-----Original Message-----
From: Thomas Allen [mailto:thomas@markeallenlaw.com]
Sent: Thursday, September 20, 2018 1:49 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>
Subject: Tom Allen

Dear Erik,

Your name and contact info was provided to me in a letter from Chris Hladick dated Sept 5 2018.

A recent article by Bloomberg has reported the EPA had meetings with Alaska groups, one person in particular being Matt Newman. The meetings supposedly took place on September 11th, 2018. Bloomberg states, Alaska groups "were told that the restrictions under the federal Clean Water Act will remain."

Is this true? Why hasn't this been communicated to all stakeholders or been made public? Was this meeting with regional 10 employees? Has Andrew Wheeler recused himself from this matter, and if so who will take ownership?

I look forward to a response before end of day, 5pm EST. Friday, September 21st.

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Thank you in advance for your time.

Sent from my iPhone

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To: Brown, Byron[brown.byron@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Hladick, Christopher[hladick.christopher@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 6/21/2018 8:41:39 PM (UTC)
Subject: FW: AK business letter re: suspension of Pebble 404 permit

Just FYI, please leave me off of any responses to this e-mail that you may send, as Trout Unlimited is a former client. Thank you.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Nelli Williams [mailto:Nelli.Williams@tu.org]
Sent: Thursday, June 21, 2018 4:36 PM
To: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Hladick.christopher@Epamail.epa.gov
Subject: FW: AK business letter re: suspension of Pebble 404 permit

Dear EPA staff,

Just FYI on letter submitted to Army Corps of Engineers attached and below. Thank you for your continued attention on this issue very important to Alaskans.

Hope you are having an enjoyable summer! Its solstice and the salmon are starting to return up here…
Nelli

Nelli Williams
Alaska Program Director
Trout Unlimited
Anchorage, Alaska
907-230-7121 | nwilliams@tu.org

From: Nelli Williams <Nelli.Williams@tu.org>
Date: Thursday, June 21, 2018 at 10:55 AM
To: "regena.l.townsend-treleaven.civ@mail.mil" <regena.l.townsend-treleaven.civ@mail.mil>, "McCoy, Shane M CIV USARMY CEPOA (US)" <Shane.M.Mccoy@usace.army.mil>, "Hobbie, David S CIV USARMY CEPOA (US)" <David.S.Hobbie@usace.army.mil>, "Semonite, Todd T LTG USARMY HQDA OCE (US)" <Todd.T.Semonite@usace.army.mil>, "Executive Office, POA" <POA.ExecutiveOffice@usace.army.mil>, "christopher.m.page20.civ@mail.mil" <christopher.m.page20.civ@mail.mil>, "Ryan A. Fisher" <Ryan.A.Fisher12.civ@mail.mil>, "Moyer, Jennifer A CIV USARMY CEHQ (US)" <Jennifer.A.Moyer@usace.army.mil>
Subject: AK business letter re: suspension of Pebble 404 permit

Dear Assistant Secretary James and ACOE staff,

Please see attached letter from more than 35 individuals who own and/or operate businesses in Bristol Bay, Alaska. These businesses employ hundreds of Americans and are sought after destinations for hunters and anglers from around the globe. Their businesses, and the legendary Bristol Bay sportfishing experience, are threatened by the proposed Pebble Mine-- a massive open-pit mine that would dig up or dewater miles of rivers in the area and fundamentally change the landscape visitors to the region seek. Your agency is currently reviewing the Pebble Partnerships application

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for a 404 permit via the NEPA process – but due to changing plans, inadequate information and numerous other factors these business owners request that the permit review process be suspended until some of the issues outlined in this letter can be resolved.

Thank you for your time, consideration and attention to this issue so important to Alaskans. Please cc me on your response to this group so I can make sure they see it, many of them are out in the field operating their businesses during the next couple months and I know how to track them down.

Sincerely,
Nelli Williams
Trout Unlimited – Alaska Program
Anchorage, AK
907-230-7121

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To: Brown, Byron[brown.byron@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Hladick.christopher@Epamail.epa.gov[Hladick.christopher@Epamail.epa.gov]
From: Nelli Williams[Nelli.Williams@tu.org]
Sent: Thur 6/21/2018 8:36:01 PM (UTC)
Subject: FW: AK business letter re: suspension of Pebble 404 permit
Pebble.SuspendNEPAprocess.LtrtoACOE.pdf

Dear EPA staff,

Just FYI on letter submitted to Army Corps of Engineers attached and below. Thank you for your continued attention on this issue very important to Alaskans.

Hope you are having an enjoyable summer! Its solstice and the salmon are starting to return up here…
Nelli

Nelli Williams
Alaska Program Director
Trout Unlimited
Anchorage, Alaska
907-230-7121 | nwilliams@tu.org

From: Nelli Williams <Nelli.Williams@tu.org>
Date: Thursday, June 21, 2018 at 10:55 AM
To: "regena.l.townsend-treleaven.civ@mail.mil" <regena.l.townsend-treleaven.civ@mail.mil>, "McCoy, Shane M CIV USARMY CEPOA (US)" <Shane.M.Mccoy@usace.army.mil>, "Hobbie, David S CIV USARMY CEPOA (US)" <David.S.Hobbie@usace.army.mil>, "Semonite, Todd T LTG USARMY HQDA OCE (US)" <Todd.T.Semonite@usace.army.mil>, "Executive Office, POA" <POA.ExecutiveOffice@usace.army.mil>, "christopher.m.page20.civ@mail.mil" <christopher.m.page20.civ@mail.mil>, "Ryan A. Fisher" <Ryan.A.Fisher12.civ@mail.mil>, "Moyer, Jennifer A CIV USARMY CEHQ (US)" <Jennifer.A.Moyer@usace.army.mil>
Subject: AK business letter re: suspension of Pebble 404 permit

Dear Assistant Secretary James and ACOE staff,

Please see attached letter from more than 35 individuals who own and/or operate businesses in Bristol Bay, Alaska. These businesses employ hundreds of Americans and are sought after destinations for hunters and anglers from around the globe. Their businesses, and the legendary Bristol Bay sportfishing experience, are threatened by the proposed Pebble Mine-- a massive open-pit mine that would dig up or dewater miles of rivers in the area and fundamentally change the landscape visitors to the region seek. Your agency is currently reviewing the Pebble Partnerships application for a 404 permit via the NEPA process – but due to changing plans, inadequate information and numerous other factors these business owners request that the permit review process be suspended until some of the issues outlined in this letter can be resolved.

Thank you for your time, consideration and attention to this issue so important to Alaskans. Please cc me on your response to this group so I can make sure they see it, many of them are out in the field operating their businesses during the next couple months and I know how to track them down.

Sincerely,
Nelli Williams
Trout Unlimited – Alaska Program
Anchorage, AK
907-230-7121

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June 19, 2018

The Honorable R.D. James
U.S. Army Corps of Engineers
441 G Street NW
Washington, D.C. 20314

Dear Assistant Secretary James,

The undersigned businesses and organizations, which employ hundreds of Americans in Alaska's Bristol Bay region and represent thousands of sportsmen and sportswomen, are writing to request you suspend review of Pebble Limited Partnership's (PLP) application for permits to develop the proposed Pebble mine. PLP's permit application leaves numerous critical questions about the project unanswered, and its more recent "project update," dated May 11, 2018, further confirms that PLP's proposal is incomplete and not yet ripe for serious consideration by permitting agencies.

The Bristol Bay region is home to the world's most valuable wild-salmon fishery, which generates $1.5 billion in annual economic output, more than 30% of all Alaska salmon harvests, and accounts for more than half of all private-sector jobs in the region. Hunters and anglers

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travel from throughout the globe to the Bristol Bay region for its trophy fish and game, its remote scenery, and its wild character.

Federal agencies and the public must have the opportunity to rigorously review PLP's mine plan in its entirety to ensuring the proposed Pebble mine does not forever alter the character and natural productivity of the Bristol Bay region. In its permit application to the U.S. Army Corps of Engineers, PLP proposes a mile-wide and 1/3-mile-deep mine pit, an 83-mile-long transportation corridor with more than 200 road crossings over salmon streams and a year-round ice-breaking ferry across Lake Iliamna, and a 230-megawatt power plant with a 188-mile gas pipeline. While this permit application contemplates a 1.2 billion-ton mine with a 20-year mine life, we know the deposit is close to 10.89 billion tons and that PLP intends to expand its operations far beyond what it proposes in its pending permit application. PLP's own website advertises that it "believe[s] it's possible that the Deposit may hold a century's worth of minerals." In addition, PLP's President and CEO recently boasted the project is "a multi-generational opportunity. It's size and scale will lead to a very, very long life mine."

Concerns about future expansion of the mine are already coming to fruition while many important details about how the mine will operate remain unanswered. The public scoping period is not even over yet and PLP's recent "project update" proposes an increase in the mine size from 1.2 billion tons to 1.5 billion tons of material—with commensurate increases to the volume of tailings, the size of the mine pit, the size of the power plant, and to the amount of road and marine traffic. Additionally, both the permit application and the "project update" glaringly omit any sort of economic feasibility report, thorough baseline data, and important details about how PLP will mitigate for its impacts or manage ground and surface waters. The recent announcement by First Quantum Minerals that they will be making no further investment in the Pebble Mine, further calls the financial viability of this project into question. Without these essential details, there is no way for the public or for permitting agencies to adequately review PLP's permit application and do the due diligence required to ensure we aren't developing one resource at the expense of another. Because of this and the great public interest at stake, we encourage you suspend review of the proposed Pebble mine until additional essential information is available.

Sincerely,

Daren & Tracy Erickson
Alaska's Enchanted Lake Lodge
King Salmon/Eagle River, AK
enchantedlake@earthlink.net

Martin Kviteng
Alaska's Fishing Unlimited, Inc.
Port Alsworth, AK
info@alaskalodge.com

Brian Kraft
Alaska Sportsman's Lodge
Anchorage/Igiugig, AK
bkraft@alaskasportsmanslodge.com

John Holman
No See Um Lodge
Kvichak River/Wasilla, AK
john@noseeumlodge.com

Chris and Linda Branham

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Chuck Ash
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Wild Fly Pursuits
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Bud Hodson
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Heidi Wild

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Wild on the Fly
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slaurent@bristolbaylodge.com

Pat Vermillion
Royal Coachman Lodge
Copper River Lodge
Dillingham and Pope Vannoy, AK
pat@sweetwatertravel.com

Daniel Herrig
Rapids Camp Lodge
King Salmon, AK

David Byrd
Arctic North Guides, LLC
King Salmon, AK

Rolan Ruoss & Jo Muprhy
Sea Hawk Air, Inc.
Kodiak, AK

Brad & Brenda Waitman
Igiugig Lodge, LLC
Igiugig, AK

Rochelle Harrison
Grizzly Skins of Alaska
King Salmon, AK
grizskins@gmail.com

Justin Johns
Fishing Bear Lodge
Dillingham, AK

Cody Dutcher
Takedown Sportfishing
Soldotna, AK

David & Pam Pingree
Quartz Creek Lodge
Kodiak, AK

John Perry
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King Salmon, AK
jpduck02@yahoo.com

Brian Harry
Intricate Bay Lodge
Iliamna, AK
Brian@intricatebaylodge.com

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Bristol Bay/Pebble Mine 2019
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Message

From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 3/13/2018 12:11:45 AM
To: Fotouhi, David [Fotouhi.David@epa.gov]
CC: Palich, Christian [palich.christian@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Kaiser, Sven-Erik [Kaiser.Sven-Erik@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Peck, Gregory [Peck.Gregory@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Re: SEPW QFR

I am good with what OGC provided below.

Sent from my iPhone

On Mar 12, 2018, at 6:03 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

> We have a few suggestions to the first paragraph; let me know if this works:
>
> **Ex. 5 Deliberative Process (DP)**
>
> The second paragraph is fine as written.
>
> Best,
>
> David
>
> **David Fotouhi**
>
> Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> **From:** Palich, Christian
> **Sent:** Monday, March 12, 2018 6:34 PM
> **To:** Forsgren, Lee <Forsgren.Lee@epa.gov>
> **Cc:** Fotouhi, David <Fotouhi.David@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Subject:** Re: SEPW QFR
>
> Thanks all!

AMERICAN OVERSIGHT

Christian R. Palich
Deputy Associate Administrator
Office of Congressional Affairs
C: Ex. 6 Personal Privacy (PP)

Sent from my iPhone

On Mar 12, 2018, at 6:33 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

Thanks David!

From: Fotouhi, David
Sent: Monday, March 12, 2018 6:33 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: SEPW QFR

We will review and provide comments ASAP.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Forsgren, Lee
Sent: Monday, March 12, 2018 6:24 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>
Cc: Goodin, John <Goodin.John@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: SEPW QFR

Sven,

I would modify it as follows:

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

I would ask that OGC review this response as well.

Regards,
Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3219 WJCE
Washington, DC 20460
Phone: 202-564-5700
Forsgren.Lee@epa.gov

From: Kaiser, Sven-Erik
Sent: Monday, March 12, 2018 6:01 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>
Subject: Re: SEPW QFR

Lee- Are you okay with Greg Peck's draft response (in italics below)? Thanks,
Sven

On Mar 12, 2018, at 5:18 PM, Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov> wrote:

> Lee, see Gregory Peck's draft below.
>
> **From:** Peck, Gregory
> **Sent:** Monday, March 12, 2018 2:37 PM
> **To:** Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>;

AMERICAN OVERSIGHT

Klasen, Matthew <Klasen.Matthew@epa.gov>
Subject: RE: SEPW QFR

How about something like this?

107. <!--[if !supportLists]--><!--[endif]--> ***OW:*** I appreciated your recent announcement that that you have decided not to abandon proposed EPA oversight of the massive Pebble Mine, leaving restrictions in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources. Given EPA's role in this process, would you say that EPA can contribute valuable feedback to the development of projects, be they energy, mining, or transportation? Given EPA's valuable feedback, would you object to efforts to roll back EPA's responsibilities to provide input on infrastructure projects?

Ex. 5 Deliberative Process (DP)

Kaitlyn Shimmin
Special Assistant Congressional and Intergovernmental Affairs
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
O: (202) 564-4108
C: Ex. 6 Personal Privacy (PP)
Shimmin.Kaitlyn@epa.gov

From: Forsgren, Lee
Sent: Monday, March 12, 2018 5:17 PM
To: Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert)

AMERICAN OVERSIGHT

<frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
Cc: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: RE: SEPW QFR

Sven-Erik,

You said you have a proposed response for this or do I need to do/have one done?

Lee

D. Lee Forsgren
Deputy Assistant Administrator
Office Of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3219 WJCE
Washington, DC 20460
Phone: 202-564-5700
Forsgren.Lee@epa.gov

From: Kaiser, Sven-Erik
Sent: Monday, March 12, 2018 2:14 PM
To: Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Borum, Denis <Borum.Denis@epa.gov>; Klasen, Matthew <Klasen.Matthew@epa.gov>
Subject: SEPW QFR

OW Team – Thanks for getting in the SEPW QFR responses. Van Hollen #107 on infrastructure projects was originally assigned to OGC/OPA and it's been asked for OW to take a crack at it. Please take a look and see if you can draft a response. Apologies for the late notice. Please let me know if any questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753 (o)
Ex. 6 Personal Privacy (PP) (c)

AMERICAN OVERSIGHT

107. <!--[if !supportLists]--><!--[endif]--> ***OW:*** I appreciated your recent announcement that that you have decided not to abandon proposed EPA oversight of the massive Pebble Mine, leaving restrictions in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources. Given EPA's role in this process, would you say that EPA can contribute valuable feedback to the development of projects, be they energy, mining, or transportation? Given EPA's valuable feedback, would you object to efforts to roll back EPA's responsibilities to provide input on infrastructure projects?

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Hladick, Christopher[hladick.christopher@epa.gov]
From: Greenwalt, Sarah[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C13775B8F424E90802669B87B135024-GREENWALT,]
Sent: Tue 3/13/2018 8:47:49 PM (UTC)
Subject: Re: Bristol Bay comment period

I will be in the air at that time. Free on Friday.

Sent from my iPhone

On Mar 13, 2018, at 4:25 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

> How about 3:30 EDT (12:30 PDT) tomorrow?
>
> ---
>
> **From:** Fotouhi, David
> **Sent:** Tuesday, March 13, 2018 3:52 PM
> **To:** Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
> **Subject:** RE: Bristol Bay comment period
>
> It looks like we were not able to connect on this issue last week. Is there a time tomorrow that might work? Perhaps noon eastern or 4:00 p.m. eastern?
>
> **David Fotouhi**
>
> Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> ---
>
> **From:** Hladick, Christopher
> **Sent:** Thursday, March 8, 2018 11:18 AM
> **To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> **Subject:** Re: Bristol Bay comment period
>
> It's a day off for me so can call anytime except 10:30 our time. Have an RA check in with Ken Wagner. I know days off fill up fast around here. Just name the time
>
> Sent from my iPhone
> On Mar 8, 2018, at 8:09 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:
>
> > Unfortunately I am unavailable at that time. If we look at tomorrow I would be happy to call in.
> >
> > **Sarah A. Greenwalt**
> >
> > U.S. Environmental Protection Agency
> > Work: 202-564-1722 | Cell: Ex. 6 Personal Privacy (PP)
> > Greenwalt.Sarah@epa.gov
> >
> > ---
> >
> > **From:** Hladick, Christopher
> > **Sent:** Thursday, March 8, 2018 10:50 AM
> > **To:** Forsgren, Lee <Forsgren.Lee@epa.gov>
> > **Cc:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> > **Subject:** Re: Bristol Bay comment period
> >
> > I can do 4:30 your time.

AMERICAN OVERSIGHT

Sent from my iPhone
On Mar 8, 2018, at 5:19 AM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

I am in the WOTUS meetings with the States all day but could step out to accommodate everyone else's availability. Am completely free after 5:30 pm EST. (Reminder only EST till Sunday morning then EDT!)

From: Greenwalt, Sarah
Sent: Thursday, March 8, 2018 8:05 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Bristol Bay comment period

Lee and I spoke last night and thought it would be good for us to connect. What is everyone's availability for today?

Sarah A. Greenwalt

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: Ex. 6 Personal Privacy (PP)
Greenwalt.Sarah@epa.gov

From: Fotouhi, David
Sent: Wednesday, March 7, 2018 7:34 PM
To: Hladick, Christopher <hladick.christopher@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Bristol Bay comment period

Chris, Lee, Sarah,

Would it make sense for us to have another conversation about our strategy for teeing up this issue for the Administrator? If another conversation is not necessary, I'm happy to coordinate with Hayley to set up a time to brief the Administrator—please let me know.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Hladick, Christopher[hladick.christopher@epa.gov]
From: Greenwalt, Sarah[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C13775B8F424E90802669B87B135024-GREENWALT,]
Sent: Fri 4/6/2018 6:58:25 PM (UTC)
Subject: Re: Bristol Bay comment period

I'm free Monday at 1:30 eastern.

Sent from my iPhone

On Apr 6, 2018, at 2:45 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

> Very good idea.
>
> Sent from my iPhone
>
> On Apr 6, 2018, at 1:45 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:
>
> > I just wanted to follow up on this issue. Should we plan another call with the four of us so that we can come to an agreement on when to present these options to the Administrator?
> >
> > **David Fotouhi**
> >
> > Deputy General Counsel
> > Office of General Counsel
> > U.S. Environmental Protection Agency
> > Tel: +1 202.564.1976
> > fotouhi.david@epa.gov
> >
> > ---
> >
> > **From:** Fotouhi, David
> > **Sent:** Wednesday, March 14, 2018 1:09 PM
> > **To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> > **Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>
> > **Subject:** Re: Bristol Bay comment period
> >
> > I'll do my best to join by phone at that time.
> >
> > Sent from my iPhone
> > On Mar 14, 2018, at 12:32 PM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:
> >
> > > Works for me.
> > >
> > > Sent from my iPhone
> > > On Mar 14, 2018, at 12:18 PM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:
> > >
> > > > 4:30 pm EDT?
> > > >
> > > > Sent from my iPhone
> > > > On Mar 14, 2018, at 10:49 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:
> > > >
> > > > > I can make myself available any time on Friday, and it sounds like David can too, so Lee what time after 3pm Eastern works for you?
> > > > >
> > > > > **Sarah A. Greenwalt**

AMERICAN OVERSIGHT

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: Ex. 6 Personal Privacy (PP)
Greenwalt.Sarah@epa.gov

From: Hladick, Christopher
Sent: Wednesday, March 14, 2018 10:35 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Re: Bristol Bay comment period

3 or after your time.

Sent from my iPhone
On Mar 14, 2018, at 7:09 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

> So Chris, what time would work for you?
>
> **Sarah A. Greenwalt**
>
> U.S. Environmental Protection Agency
> Work: 202-564-1722 | Cell: Ex. 6 Personal Privacy (PP)
> Greenwalt.Sarah@epa.gov
>
> ---
>
> **From:** Hladick, Christopher
> **Sent:** Wednesday, March 14, 2018 9:57 AM
> **To:** Fotouhi, David <Fotouhi.David@epa.gov>
> **Cc:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Subject:** Re: Bristol Bay comment period
>
> I am on a plane to MSP until 1:30 their time.
>
> Sent from my iPhone
> On Mar 14, 2018, at 6:43 AM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:
>
> > I'm out of the office on Friday, but can join by phone.
> >
> > **David Fotouhi**
> >
> > Deputy General Counsel
> > Office of General Counsel
> > U.S. Environmental Protection Agency
> > Tel: +1 202.564.1976
> > fotouhi.david@epa.gov
> >
> > ---
> >
> > **From:** Forsgren, Lee
> > **Sent:** Wednesday, March 14, 2018 9:11 AM
> > **To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> > **Cc:** Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> > **Subject:** Re: Bristol Bay comment period

AMERICAN OVERSIGHT

Friday works for me.

Sent from my iPhone
On Mar 14, 2018, at 8:59 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

> I'll be staffing the Administrator all day on Thursday. May we do Friday?
>
> **Sarah A. Greenwalt**
>
> U.S. Environmental Protection Agency
> Work: 202-564-1722 | Cell: Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP)
> Greenwalt.Sarah@epa.gov
>
> **From:** Forsgren, Lee
> **Sent:** Tuesday, March 13, 2018 4:59 PM
> **To:** Hladick, Christopher <hladick.christopher@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Subject:** RE: Bristol Bay comment period
>
> Maybe Thursday?
>
> **From:** Hladick, Christopher
> **Sent:** Tuesday, March 13, 2018 4:47 PM
> **To:** Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
> **Subject:** RE: Bristol Bay comment period
>
> I can't make it tomorrow I will be in Kitsap.
>
> Chris Hladick
> Regional

AMERICAN OVERSIGHT

Administrator
U.S. Environmental Protection Agency, Region 10
Office: (206) 553-1234
Cell: Ex. 6 Personal Privacy (PP)
Fax: (206) 553-1809

From: Forsgren, Lee
Sent: Tuesday, March 13, 2018 1:26 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Bristol Bay comment period

How about 3:30 EDT (12:30 PDT) tomorrow?

From: Fotouhi, David
Sent: Tuesday, March 13, 2018 3:52 PM
To: Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Bristol Bay comment period

It looks like we were not able to connect on this issue last week. Is there a time tomorrow that might work? Perhaps noon eastern or 4:00 p.m. eastern?

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

From: Hladick, Christopher
Sent: Thursday, March 8, 2018 11:18 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: Bristol Bay comment period

It's a day off for me so can call anytime except 10:30 our time. Have an RA check in with Ken Wagner. I know days off fill up fast around here. Just name the time

Sent from my iPhone
On Mar 8, 2018, at 8:09 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

> Unfortunately I am unavailable at that time. If we look at tomorrow I would be happy to call in.
>
> **Sarah A. Greenwalt**
>
> U.S. Environmental Protection Agency
> Work: 202-564-1722 | Cell
> Ex. 6 Personal Privacy (PP)
> Greenwal

AMERICAN OVERSIGHT

t.Sarah@epa.gov

From: Hladick, Christopher
Sent: Thursday, March 8, 2018 10:50 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: Bristol Bay comment period

I can do 4:30 your time.

Sent from my iPhone
On Mar 8, 2018, at 5:19 AM, Forsgren, Lee <Forsgren.Lee@epa.gov> wrote:

I am in the WOTUS meetings with the States all day but could step out to accommodate everyone else's availability. Am completely free after 5:30 pm EST. (Reminder only EST till Sunday morning then EDT!)

From: Greenwalt, Sarah
Sent: Thursday, March 8, 2018 8:05 AM

AMERICAN OVERSIGHT

To: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Bristol Bay comment period

Lee and I spoke last night and thought it would be good for us to connect. What is everyone's availability for today?

Sarah A. Greenwalt

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: Ex. 6 Personal Privacy (PP)
Greenwalt.Sarah@epa.gov

From: Fotouhi, David
Sent: Wednesday, March 7, 2018 7:34 PM
To: Hladick, Christopher <hladick.christopher@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Bristol Bay comment period

Chris, Lee, Sarah,

Would it make sense for us to have another conversation about our strategy for teeing up this issue for the Administrator? If another conversation is not necessary, I'm happy to coordinate with Hayley to set up a time to brief the Administrator—please let me know.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Hladick, Christopher[hladick.christopher@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 3/8/2018 12:33:30 AM (UTC)
Subject: Bristol Bay comment period
Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_f....docx

Chris, Lee, Sarah,

Would it make sense for us to have another conversation about our strategy for teeing up this issue for the Administrator? If another conversation is not necessary, I'm happy to coordinate with Hayley to set up a time to brief the Administrator—please let me know.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
From: Hladick, Christopher[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B82D04419C42423A97BD7624A3A09908-HLADICK, CH]
Sent: Wed 3/27/2019 4:08:14 PM (UTC)
Subject: Re: Bristol Bay 404c - CMS Alaska State Senate Leaders

Will have a draft to you soonest.

Sent from my iPhone

On Mar 26, 2019, at 6:58 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

If you wouldn't mind sending me reworked versions of your team's drafts, I would be glad to review and revise as appropriate. Thanks, Chris.

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Hladick, Christopher
Sent: Tuesday, March 26, 2019 9:29 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: Bristol Bay 404c - CMS Alaska State Senate Leaders

Thanks:

So David are you working on that or should I mark up what we have and send to you and Lee for review.

Sent from my iPhone
On Mar 26, 2019, at 2:38 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Ryan Jackson
Chief of Staff
U.S. EPA
Ex. 6 Personal Privacy (PP)

On Mar 4, 2019, at 9:22 PM, Hladick, Christopher <hladick.christopher@epa.gov> wrote:

Ryan:

AMERICAN OVERSIGHT

We have a few of these requests to withdraw the PD. This one from Senate leadership from Alaska legislature. Also attached is a proposed response for your review.

Thanks
Chris

<19-000-2365_Correspondence.pdf>
<19-000-2365_Draft Letter_Giessel Coghill Costello.docx>

AMERICAN OVERSIGHT

To: Goodin, John[Goodin.John@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]
Cc: Fotouhi, David[fotouhi.david@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Hladick, Christopher[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B82D04419C42423A97BD7624A3A09908-HLADICK, CH]
Sent: Thur 3/1/2018 5:38:20 PM (UTC)
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

From my end: David Allnut, Ashley Palomaki, Erik Peterson and myself. Thanks

Chris Hladick
Regional Administrator
U.S. Environmental Protection Agency, Region 10
Office: (206) 553-1234
Cell: Ex. 6 Personal Privacy (PP)
Fax: (206) 553-1809

From: Goodin, John
Sent: Thursday, March 1, 2018 9:34 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: RE: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Thanks, Lee. Recommend from OW (in addition to you) Palmer Hough, Russ Kaiser, and me. I defer to David and Chris re: their attendees. You are the owner of the invite and can have Crystal cancel/resend with new attendees.
Thanks
John

From: Forsgren, Lee
Sent: Thursday, March 01, 2018 11:13 AM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

John,

I just talked to Chris Hladick and we both agree that this meeting has grown way too large. We need to scale it back to no more than 4 OW staff including me, 4 from R10 including Chris, 2 from OGC including Dave Fotouhi and Sarah Greenwalt.

We can't be forthcoming enough to discuss options with 60 people involved.

Lee

-----Original Appointment-----
From: Tyson, Linda **On Behalf Of** Hladick, Christopher
Sent: Thursday, March 1, 2018 11:06 AM
To: Forsgren, Lee
Subject: Accepted: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
When: Wednesday, March 7, 2018 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3233 WJCE

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 6/12/2018 11:14:40 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Attachments: Untitled Attachment; Canceled: Bristol Bay Check-in; Canceled: Bristol Bay Check-in; Untitled Attachment; Canceled: Bristol Bay Check-in; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Canceled: Bristol Bay Check-in; Untitled Attachment
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Organizer: Peterson, Erik[Peterson.Erik@epa.gov]

Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start Time: Tue 6/25/2019 7:30:00 PM (UTC)

End Time: Tue 6/25/2019 8:30:00 PM (UTC)

Required Attendees: Gude, Karen; Herbst, John; Whitley, Annie; Lindsay, Andrea; Skadowski, Suzanne; Bennett, Brittany; Palomaki, Ashley; Wehling, Carrie; Nalven, Heidi; Steiner-Riley, CaraSteiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Hough, Palmer; Herbst, John; Gude, Karen

Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx

BB Correspondence Plan 2019_V2.docx

Topics

Correspondence Plan (attached)

RFC

404c options for additional public comment

Correspondence plan

-
-

→ Join by Phone

Toll number

Conference Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Organizer: Peterson, Erik[Peterson.Erik@epa.gov]

Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start Time: Tue 6/25/2019 7:30:00 PM (UTC)

End Time: Tue 6/25/2019 8:30:00 PM (UTC)

Required Attendees: Gude, Karen; Herbst, John; Whitley, Annie; Lindsay, Andrea; Skadowski, Suzanne; Bennett, Brittany; Palomaki, Ashley; Wehling, Carrie; Nalven, Heidi; Steiner-Riley, CaraSteiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Hough, Palmer; Herbst, John; Gude, Karen

Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx

Topics

Correspondence Plan (draft to be attached)

RFC

404c options for additional public comment

Correspondence plan

-
-

→ Join by Phone

Toll number: (
Conference ID: Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

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

June 20, 2019

OFFICE OF MISSION SUPPORT

Ben Lieberman
Competitive Enterprise Institute
1310 L Street, NW 7th Floor
Washington, DC 20005

Dear Mr. Lieberman:

This letter is to provide you with a status update to your Request for Correction (RFC #19001) received by the U.S. Environmental Protection Agency (EPA) on November 14, 2018. In your RFC, you cite concerns about the quality of the 2014 Bristol Bay Watershed Assessment. The issues you raised are still under consideration by the EPA and relate to ongoing processes.

Sincerely,

Vincia Holloman

Vincia Holloman, Director
Enterprise Quality Management Division
Office of Enterprise Information Programs

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Tue 9/11/2018 4:00:00 PM (UTC)
End Time:	Tue 9/11/2018 5:00:00 PM (UTC)
Required Attendees:	Fordham, Tami; Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Mendelman, Krista; Stern, Allyn
Optional Attendees:	Detwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Tue 9/25/2018 4:00:00 PM (UTC)
End Time:	Tue 9/25/2018 5:00:00 PM (UTC)
Required Attendees:	Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn
Optional Attendees:	Detwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Wed 11/7/2018 5:00:00 PM (UTC)
End Time:	Wed 11/7/2018 6:00:00 PM (UTC)
Required Attendees:	Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn; Detwiler, Susan K.; Chu, Rebecca

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 10/1/2018 8:13:08 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 3/15/2019 10:15:33 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 3/19/2019 7:30:00 PM
End: 3/19/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

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Appointment

From: Tallent, Robert [Tallent.Robert@epa.gov]
Sent: 2/27/2019 3:46:27 PM
To: Tallent, Robert [Tallent.Robert@epa.gov]; Brown, DonaldM [Brown.DonaldM@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Elleman, Robert [Elleman.Robert@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; WigginsLewis, Miriam [WigginsLewis.Miriam@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Frithsen, Jeff [Frithsen.Jeff@epa.gov]; vanDrunick, Suzanne [vanDrunick.Suzanne@epa.gov]; Schofield, Kate [Schofield.Kate@epa.gov]; Bahadori, Tina [Bahadori.Tina@epa.gov]; Sheppard, Tracy [Sheppard.Tracy@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Kirby, Kevin [KIRBY.KEVIN@EPA.GOV]; Frazer, Brian [Frazer.Brian@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]

Subject: RFC 19001 Scoping Team meeting
Location: WJC West Room 6340K

Start: 3/13/2019 7:00:00 PM
End: 3/13/2019 8:00:00 PM
Show Time As: Tentative

Hello Everyone

We would like to continue our work on the RFC 19001 concerning the Bristol Bay Watershed.

The meeting will be held in WJC West Room 6340K if you are in the DC area.

Otherwise the call in number is Ex. 6 Personal Privacy (PP)
Conference code is Ex. 6 Personal Privacy (PP)

Thanks for all you do!

Bob Tallent
EQMD

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 6/12/2018 11:14:40 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Attachments: Untitled Attachment; Canceled: Bristol Bay Check-in; Canceled: Bristol Bay Check-in; Untitled Attachment; Canceled: Bristol Bay Check-in; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Canceled: Bristol Bay Check-in; Untitled Attachment
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 7/8/2019 11:42:35 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 7/9/2019 7:30:00 PM
End: 7/9/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

Pebble 404c Leopold Memo – Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional realignment transition

→ Join by Phone

Toll number Ex. 6 Personal Privacy (PP)
Conference

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 7/15/2019 11:43:15 PM
To: Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]; Gude, Karen [Gude.Karen@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 7/16/2019 8:00:00 PM
End: 7/16/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

404c

- Leopold memo: Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional Realignment and Bristol Bay

→ Join by Phone

Toll number Ex. 6 Personal Privacy (PP)
Conference

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

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To: Nalven, Heidi[Nalven.Heidi@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Tue 7/30/2019 4:21:07 PM (UTC)
Subject: FW: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, M/S 11-C07
Seattle, WA 98101
206-553-8582

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 9:11 AM
To: Abboud, Michael <abboud.michael@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: RE: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview
Importance: High

Thank you Michael. Adding our team here. We will share with Chris asap.

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Abboud, Michael <abboud.michael@epa.gov>
Sent: Tuesday, July 30, 2019 9:08 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: FW: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

Suzanne this is final from HQ. Only thing that needs to get confirmed is Chris' quote. Plan to send from Region 10 at 11am pacific time.

From: EPA Press Office <press@epa.gov>
Sent: Tuesday, July 30, 2019 12:07 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

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EPA Withdraws Outdated, Preemptive Proposed Determination to

AMERICAN OVERSIGHT

Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) - Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

Ex. 5 Deliberative Process (DP)

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process. "Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold.** EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process. Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the

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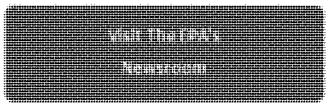
public comment opportunity on the DEIS and permit notice.

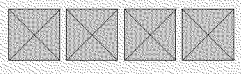
On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

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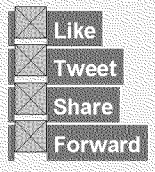
https://usenvironmentalprotectionagency.cmail19.com/t/d-i-pudtra-l-y/





U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

Unsubscribe



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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 3/15/2019 10:15:33 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 3/19/2019 7:30:00 PM
End: 3/19/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

NEPA/Permitting and 404c

Competitive Enterprise Institute Request for Correction

3/12/19 Briefing for Scientific Integrity Official Francesca Grifo

CMS
- AK State Senate and PLP response status

FOIA
- McKeever
- Trustee for Alaska

→ Join by Phone

Toll number Ex. 6 Personal Privacy (PP)
Conference

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Hough, Palmer[Hough.Palmer@epa.gov]; Tallent, Robert[Tallent.Robert@epa.gov]; Brown, DonaldM[Brown.DonaldM@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Elleman, Robert[Elleman.Robert@epa.gov]; Allnutt, David[Allnutt.David@epa.gov]; WigginsLewis, Miriam[WigginsLewis.Miriam@epa.gov]; Goodin, John[Goodin.John@epa.gov]; vanDrunick, Suzanne[vanDrunick.Suzanne@epa.gov]; Schofield, Kate[Schofield.Kate@epa.gov]; Sheppard, Tracy[Sheppard.Tracy@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Kirby, Kevin[KIRBY.KEVIN@EPA.GOV]
From: Bahadori, Tina[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7DA7967DCAFB4C5BBC39C666FEE31EC3-BAHADORI, TINA]
Sent: Wed 3/13/2019 1:49:11 PM (UTC)
Subject: RE: RFC 19001 Scoping Team meeting

This distillation and draft responses were very helpful, Kate and Palmer.
Tina

From: Hough, Palmer
Sent: Tuesday, March 12, 2019 12:39 PM
To: Tallent, Robert <Tallent.Robert@epa.gov>; Brown, DonaldM <Brown.DonaldM@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Elleman, Robert <Elleman.Robert@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; WigginsLewis, Miriam <WigginsLewis.Miriam@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Frithsen, Jeff <Frithsen.Jeff@epa.gov>; vanDrunick, Suzanne <vanDrunick.Suzanne@epa.gov>; Schofield, Kate <Schofield.Kate@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>; Sheppard, Tracy <Sheppard.Tracy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kirby, Kevin <KIRBY.KEVIN@EPA.GOV>
Subject: RE: RFC 19001 Scoping Team meeting

Folks

At our last meeting Kate and I agreed to:

1. Develop a list of the issues raised by CEI in its Nov 2018 RfC letter (attached)
2. Develop a few sample responses to these issues

Attached please find the draft issue list, including a few sample responses (big kudos to Kate). During tomorrow's meeting we would like your feedback on both the issues list and the level of detail in our sample responses.

Thanks, Kate and Palmer

-----Original Appointment-----
From: Tallent, Robert
Sent: Wednesday, February 27, 2019 10:46 AM
To: Tallent, Robert; Brown, DonaldM; Palomaki, Ashley; Peterson, Erik; Elleman, Robert; Allnutt, David; WigginsLewis, Miriam; Goodin, John; Hough, Palmer; Frithsen, Jeff; vanDrunick, Suzanne; Schofield, Kate; Bahadori, Tina; Sheppard, Tracy; Nalven, Heidi; Wehling, Carrie; Kirby, Kevin
Subject: RFC 19001 Scoping Team meeting
When: Wednesday, March 13, 2019 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC West Room 6340K

Hello Everyone

We would like to continue our work on the RFC 19001 concerning the Bristol Bay Watershed.

The meeting will be held in WJC West Room 6340K if you are in the DC area.

Otherwise the call in number is Ex. 6 Personal Privacy (PP)
Conference code is Ex. 6 Personal Privacy (PP)

Thanks for all you do!

Bob Tallent
EQMD

AMERICAN OVERSIGHT

Appointment

From: Tallent, Robert [Tallent.Robert@epa.gov]
Sent: 2/27/2019 3:46:26 PM
To: Brown, DonaldM [Brown.DonaldM@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Elleman, Robert [Elleman.Robert@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; WigginsLewis, Miriam [WigginsLewis.Miriam@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Frithsen, Jeff [Frithsen.Jeff@epa.gov]; vanDrunick, Suzanne [vanDrunick.Suzanne@epa.gov]; Schofield, Kate [Schofield.Kate@epa.gov]; Bahadori, Tina [Bahadori.Tina@epa.gov]; Sheppard, Tracy [Sheppard.Tracy@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Kirby, Kevin [KIRBY.KEVIN@EPA.GOV]

Subject: RFC 19001 Scoping Team meeting
Location: WJC West Room 6340K

Start: 3/13/2019 7:00:00 PM
End: 3/13/2019 8:00:00 PM
Show Time As: Tentative

Hello Everyone

We would like to continue our work on the RFC 19001 concerning the Bristol Bay Watershed.

The meeting will be held in WJC West Room 6340K if you are in the DC area.

Otherwise the call in number is Ex. 6 Personal Privacy (PP)
Conference code is Ex. 6 Personal Privacy (PP)

Thanks for all you do!

Bob Tallent
EQMD

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Fri 2/15/2019 9:31:05 PM (UTC)
Subject: Bristol Bay 404(c) Team Update

Hello 404c Team,

I plan to cancel our 2/19 meeting and offer the following update in its place.

NEPA/Permit Oversight

DEIS comment period

- The Corps public Draft EIS for the Pebble Mine is scheduled to be published on February 22nd. There is some chance it may be a few days earlier. It will be published online before the Federal Register notice of availability comes out on March 1st. The plan is for a 90 day comment period with comments likely due May 2019.

404 Public Notice

- The Corps' current/recent plan has been to issue a 404 Public Notice on March 1st as well. There is some ongoing dialogue about how 404 PN comment period will be managed.

404c

Bristol Bay Leadership Briefing

- Palmer, Erik, Ashley, David, Patty McGrath and Cara Steiner-Riley continue to prepare for a February 28th Bristol Bay Leadership briefing with Henry Darwin in Seattle and decision-makers from OW, OP and OGC. You can see what we are preparing here: Bristol Bay NEPA 404 Leadership Update Folder. We plan to have our last preparation meeting 2/20 and send final briefing materials 2/21 or 2/22.

CMS

- The CMS response to Pebble Limited Partnership is at HQ and has not been sent out.
- CMSs to the Alaska State Senate and Thomas Allen that are due 2/22 have been drafted and are at the R10 RA's office. There is a new Thomas Allen CMS controlled for response, the 8th since August 2018.

Request for Correction or Withdrawal

- A substantive response to the 11/14/18 Competitive Enterprise Institute's Information Quality Act Request for Correction or Withdrawal is being worked on by Palmer and Kate Schofield. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Press

- Suzanne is working on EPA BB web updates and press materials to coincide with the opening of the public Draft EIS comment period.

FOIA

Ex. 5 Deliberative Process (DP)

Erik Peterson, Environmental Review and Sediment Management Unit

AMERICAN OVERSIGHT

U.S. EPA, Region 10
1200 Sixth Avenue
Mail Code: OERA-140
Seattle, Washington 98101
(206) 553-6382

-----Original Appointment-----
From: Peterson, Erik
Sent: Monday, September 17, 2018 1:06 PM
To: Peterson, Erik; Steiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Ortiz, Michael; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Wake, Neverley; Hough, Palmer; Herbst, John
Subject: Bristol Bay 404(c) Team Call
When: Tuesday, February 19, 2019 12:30 PM-1:30 PM (UTC-08:00) Pacific Time (US & Canada).
Where: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference I

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 2/11/2019 10:51:25 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

Bristol Bay NEPA and 404 Leadership Update

CMS
- AK State Senate Leaders
- Pebble Limited Partnership
- Thomas Allen

Request for Correction or Withdrawal
- Scoping meeting

Press
- McClatchy

FOIA
- Trustees
- McKeever

Website update

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 5 Deliberative Process (DP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/11/2018 6:27:39 PM
To: Wake, Neverley [wake.neverley@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call

Start: 12/11/2018 8:30:00 PM
End: 12/11/2018 9:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Hello Bristol Bay 404c Team,

I'd like to meet on 12/11.

Proposed Agenda

NEPA Preliminary EIS Comments

Plan for Hladick and Forsgren Briefing – 12/12

FOIA

Request for Correction or Withdrawal

CMS: BBNC, Thomas Allen, PLP

External Meeting

→ Join by Phone

Toll number:
Conference I Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/14/2018 9:55:54 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Proposed Agenda – let Erik know if you have suggestions

Permit Oversight/ NEPA Review Team

NEPA Preliminary EIS Comments

Public Notice

PLP's draft Compensatory Mitigation Plan

404(c) Team

Hladick and Forsgren 12/12 Briefing

Bristol Bay NEPA and 404 Leadership Update for January 2019

CMS Pebble Limited Partnership

FOIA

Request for Correction or Withdrawal

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 11/26/2018 9:29:05 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 11/27/2018 8:30:00 PM
End: 11/27/2018 9:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

We have enough going on where having the call will be helpful. Thank you for making the call if you can.

Agenda

NEPA preliminary EIS comments

FOIA

Information Quality Act Request for Correction or Withdrawal

June 2018 memo on 404c

DeFazio and Carper response

→ Join by Phone

Toll number
Conference Ex. 5 Deliberative Process (DP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 11/16/2018 7:13:02 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 11/20/2018 8:30:00 PM
End: 11/20/2018 9:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

BB 404c Team,

I propose we meet on 11/20. See agenda below. Happy to hear feedback on the agenda.

Also, I'd like to discontinue sending the emails with the agenda. I was doing that primarily because of the litigation hold and would prefer to add the agenda to the calendar invite. I will however try not to change it too many times, and I will either add an agenda to the calendar invite or send an update/cancel proposal at least the day before our team meeting. In other words, if this calendar event has not been canceled and has an agenda then we are planning on having the call. As we have been doing, review the agenda to determine relevance for you and your level of interest.

A huge ongoing thank you for your engagement on this important project.

Agenda

NEPA/404c coordination

Competitive Enterprise Institute Information Quality Act Request for Correction or Withdrawal Regarding Bristol Bay Watershed Assessment

FOIA
- E&E News (011614)
- McKeaver FOIA Lawsuit
- Trustees for Alaska 2 (0135)
- HQ FOIA Role

Congressional correspondence
- Western Caucus (Gosar et al) – Forsgren signed final sent 9/16/18
- Lamar Smith – nearly identical Forsgren signed final sent 10/18/18
- DeFazio and Carper – in process

June 2018 memo on 404c regulation revisions

External meeting

AMERICAN OVERSIGHT

- 11/14/18 Forsgren, PLP and other BB stakeholders

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 5 Deliberative Process (DP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Tue 10/9/2018 10:30:20 PM (UTC)
Subject: Bristol Bay 404(c) - Draft Regional CMS for Tim Stephens - 404(c) Team Review Request
18-001-1187 Draft Letter.docx
18-001-1187_Correspondence.pdf

Hello 404(c) Team,

Please provide feedback on the attached Draft Letter by 10 am PST/ 1 pm EST 10/10.

Sorry for the quick turn-around. The substantive language is from the most recent Western Caucus draft response letter.

Mr. Stephens is one of about 4 Pebble investors who has been emailing Patty McGrath, myself and the R10 RA Chris Hladick. I am

Ex. 5 Deliberative Process (DP)

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]

Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Importance: High

Subject: Canceled: Bristol Bay Check-in

Start Time: Tue 9/25/2018 4:00:00 PM (UTC)

End Time: Tue 9/25/2018 5:00:00 PM (UTC)

Required Attendees: Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn

Optional Attendees: Detwiler, Susan K.; Chu, Rebecca

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)

Conference ID: Ex. 6 Personal Privacy (PP)

Code: 74080

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Lindsay, Andrea[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D10A5A1CA0D74C3894A5980CE3652BDC-LINDSAY, ANDREA]
Sent: Thur 8/30/2018 7:56:52 PM (UTC)
Subject: RE: Bristol Bay 404(c) - Draft Control Response to Thomas Allen

Erik, I took a quick look and made some proposed edits/comments in the sharepoint document. I couldn't figure out how to do redlining, so I used highlights and strikeouts instead. Thanks for the chance to preview. -Andi

---

Andrea Lindsay | Community Involvement Coordinator | EPA Region 10
lindsay.andrea@epa.gov | 206-553-1896 | 800-424-4372 x1896 | Work Days: Mondays, Thursdays, Fridays
1200 Sixth Avenue, Suite 155, RAD-202, Seattle, WA 98101

From: Peterson, Erik
Sent: Thursday, August 30, 2018 11:43 AM
To: Bennett, Brittany <bennett.brittany@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) - Draft Control Response to Thomas Allen

Hello BB 404(c) Team,

Please review and provide feedback on the attached draft response before 12pm PST/3pm EST 8/31. The plan is for R10 Office of Environmental Review and Assessment concurrence on the afternoon of 8/31 and sending to Regional Administrator on 9/4.

Thank you!

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Fri 9/7/2018 10:30:03 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Meeting - No meeting 9/11/18

Hello BB 404(c) Team,

I propose we cancel for 9/11. And, I would like to meet on 9/18.

As an update, I'm sharing the Bristol Bay Teams update for David Allnutt that Patty McGrath and I sent him and the BB check-in list today. See below.

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

Hello,

Welcome back David! Given that you are out on September 11, we are canceling the check-in and the Bristol Bay Teams have the following update for you. We plan on having the Bristol Bay Check-in on September 25th at 9:00 am PST.

Updates

Permit Oversight/ NEPA Review Team

Scoping Document

- EPA reviewed and commented on the draft scoping document that describes the significant issues raised in scoping. The final scoping document is available on the Corp's Pebble EIS website.

Preliminary EIS review

- EPA reviewed and commented on specific portions of chapter 3 (affected environment) and chapter 4 (environmental consequences) that pertain to our areas of special expertise as identified by the Corps which includes: aesthetics, surface water hydrology, groundwater hydrology, water and sediment quality, wetlands, vegetation
- The documents have many placeholders since there have been changes to the proposed action, alternatives have yet to be developed, and there are numerous substantial requests for additional information where the Corps is awaiting response from PLP.
- It is not clear whether we will be provided with another opportunity to review these chapters before the draft EIS. The Corps has indicated that there will be technical meetings in October/November to discuss comments and the impact assessment.

Alternatives

- The Corps is developing the range of alternatives to be analyzed in the EIS. We participated in a cooperating agency meeting and provided input. During the week of Sept 10, the Corps is to submit a detailed discussion of the alternatives selected for EIS review and rationale for those dismissed.

Site Visits

- July 9 – 11: CWA 404 field verification was completed by Mark Douglas
- July 31: Site visit with some of our NEPA team (Patty, Molly, Tim, Chris) to view the mine site, proposed Lake Iliamna port

AMERICAN OVERSIGHT

sites, and portions of the proposed roads.

Schedule

- The Corps Pebble EIS website identifies a draft EIS in January 2019 and a final EIS in late 2019.

404(c) Team

FOIA

Ex. 5 Deliberative Process (DP)

Representative DeFazio and Senator Carper letter response

- This July 2018 letter asks for Wheeler to revoke the June 2018 memo issued by Pruitt, describe his view of proper use of 404(c) and the Mingo Logan case, and, describe current and planned EPA actions regarding Pebble.
- EPA's response was uploaded to CMS for Lee F's signature on 8/27

Interest group letter to EPA

- This 9/6/18 letter to EPA from 15 interest groups (including, for example, the Competitive Enterprise Institute) urges Wheeler to rescind the proposed determination and applauds the June 2018 memo issued by Pruitt.
- If this letter is controlled for a response, HQ will share a draft with R10.

External Meetings

- Henry Darwin met with Pebble representatives the week of 8/2/18. The 404(c) Team uploaded a note of this meeting to our external meetings folder on share point.
- We want to emphasize our interest for external meetings at all levels to be recorded with: topic, date, attendees, agenda and notes.

PLP letter, memo to file

- **Ex. 5 AC/DP**

AMERICAN OVERSIGHT

From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]

Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Importance: High

Subject: Canceled: Bristol Bay Check-in

Start Time: Tue 9/11/2018 4:00:00 PM (UTC)

End Time: Tue 9/11/2018 5:00:00 PM (UTC)

Required Attendees: Fordham, Tami; Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Mendelman, Krista; Stern, Allyn

Optional Attendees: Detwiler, Susan K.; Chu, Rebecca

Moving the bi-weekly Bristol Bay Check-in from Wednesdays to Tuesdays at 9:00 AM PST starting July 30th.

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Bennett, Brittany[bennett.brittany@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Thur 8/30/2018 6:42:30 PM (UTC)
Subject: Bristol Bay 404(c) - Draft Control Response to Thomas Allen
18-001-0187_Control Slip.pdf
18-001-0187.Correspondence-Allen.pdf

Peterson, Erik has shared a OneDrive for Business file with you. To view it, click the link below.

18-001-0187-Draft Response..docx

Hello BB 404(c) Team,

Please review and provide feedback on the attached draft response before 12pm PST/3pm EST 8/31. The plan is for R10 Office of Environmental Review and Assessment concurrence on the afternoon of 8/31 and sending to Regional Administrator on 9/4.

Thank you!

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 9/17/2018 8:20:56 PM (UTC)
Subject: Bristol Bay 404(c) Team Meeting - Happening 9/18/18

Hello BB 404(c) Team,

I'm looking forward to meeting tomorrow, 9/18/18. Thank you for calling in if you can make it.

Agenda

FOIA – Update sent in by Ashley. Thank you Ashley!

Ex. 5 Deliberative Process (DP)

Litigation hold lifted

- Questions, comments?

Representative DeFazio and Senator Carper letter response

- This July 2018 letter asks for Wheeler to revoke the June 2018 memo issued by Pruitt, describe his view of proper use of 404(c) and the Mingo Logan case, and, describe current and planned EPA actions regarding Pebble.
- EPA's response was uploaded to CMS for Lee F's signature on 8/27
- Status?

Interest group letter to EPA

- This 9/6/18 letter to EPA from 15 interest groups (including, for example, the Competitive Enterprise Institute) urges Wheeler to rescind the proposed determination and applauds the June 2018 memo issued by Pruitt.
- If this letter is controlled for a response, HQ will share a draft with R10.
- Status?

External Meetings

- FYI - Lee F met with some BB folks 9/12 (Norm Van Vactor and Robin Samuelsen, BBEDC). The notes are attached. The most noteworthy point is that Lee indicated that the Acting Administrator has recused himself from the decision-making process re Pebble and that action will be overseen by Henry Darwin

External Correspondence

- Erik and Patty continue to receive email inquiries from Pebble stockholders and their attorney's.
- Appropriate approach to address these?

PLP letter, memo to file (updated update)

- **Ex. 5 AC/DP**

AMERICAN OVERSIGHT

Ex. 5 AC/DP

Plan for 9/25 Bristol Bay Check-in with David Allnutt

- Erik is out that day. Who can represent the 404(c) team?
- 404(c) agenda items for this check-in?

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

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To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 10/1/2018 10:03:19 PM (UTC)
Subject: Bristol Bay 404(c) Team Meeting - Cancellation for 10/2 and update request

Hello BB 404(c) Team,

I propose we cancel for 10/2. Our situation remains one of managing FOIA and correspondence responses. There is no movement on 404(c) that I am aware of.

As of now, barring something coming up, I'd like to meet next on **10/16.** Thank you for keeping 10/16 in mind as a time for us as the 404(c) team to talk.

Palmer, I would appreciate hearing what is happening with the two congressional responses that we know are underway and the potential one from Lamar Smith. I'd like to be able to tell David Allnutt the more recent news at his check-in on 10/9 at 9am PST.

Update

FOIA

Ex. 5 Deliberative Process (DP)

Western Caucus Letter, Gossar et al.

- Status?

Representative DeFazio and Senator Carper letter response

- This July 2018 letter asks for Wheeler to revoke the June 2018 memo issued by Pruitt, describe his view of proper use of 404(c) and the Mingo Logan case, and, describe current and planned EPA actions regarding Pebble.
- EPA's response was uploaded to CMS for Lee F's signature on 8/27
- Given back to Palmer last week. New DeFazio put back in CMS 9/18
- Status?

Lamar Smith

- Possibly sent a Bristol Bay letter that has gone into CMS on 9/4. Keeping an eye out for this letter.
- Status?

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Bennett, Brittany[bennett.brittany@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Wed 10/10/2018 5:44:34 PM (UTC)
Subject: RE: Bristol Bay 404(c) - Draft Regional CMS for Tim Stephens - 404(c) Team Review Request

Thank you Brittany, very helpful.

I just received another control from HQ from another Pebble investor, I plan to use the same set of paragraphs, which are from the Western Caucus most recent draft.

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Bennett, Brittany
Sent: Wednesday, October 10, 2018 9:53 AM
To: Peterson, Erik <Peterson.Erik@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: RE: Bristol Bay 404(c) - Draft Regional CMS for Tim Stephens - 404(c) Team Review Request

Thanks for a chance to review, Erik. I think you might want to **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Peterson, Erik
Sent: Tuesday, October 09, 2018 6:30 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea

AMERICAN OVERSIGHT

<Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) - Draft Regional CMS for Tim Stephens - 404(c) Team Review Request

Hello 404(c) Team,

Please provide feedback on the attached Draft Letter by 10 am PST/ 1 pm EST 10/10.

Sorry for the quick turn-around. The substantive language is from the most recent Western Caucus draft response letter.

Mr. Stephens is one of about 4 Pebble investors who has been emailing Patty McGrath, myself and the R10 RA Chris Hladick. I am

Ex. 5 Deliberative Process (DP)

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
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To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 8/27/2018 10:30:33 PM (UTC)
Subject: Bristol Bay 404(c) Team Meeting - 8/28/18 (happening)

Hello BB 404(c) Team,

We will have our team meeting 8/28 and I'm looking forward to talking with everyone who can make it.

Below is a draft agenda, let me know you have suggestions.

Agenda

FOIA

PLP-Darwin meeting 8/2, external meetings

DeFazio and Carter letter, CMS re: DeFazio and Carter letter

Gosar response

Checking in on our 404(c) meetings. Once a month ok for now? Thoughts on moving the day or time given that Allnutt check-in is on Tuesday morning?

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

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From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]

Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Importance: High

Subject: Canceled: Bristol Bay Check-in

Start Time: Wed 11/7/2018 5:00:00 PM (UTC)

End Time: Wed 11/7/2018 6:00:00 PM (UTC)

Required Attendees: Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn; Detwiler, Susan K.; Chu, Rebecca

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)

Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Bennett, Brittany[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3D7B265C202C467791CA4D4AC6B8DB8B-BENNETT, BR]
Sent: Wed 10/10/2018 4:52:51 PM (UTC)
Subject: RE: Bristol Bay 404(c) - Draft Regional CMS for Tim Stephens - 404(c) Team Review Request
18-001-1187 Draft Letter BKB.docx

Thanks for a chance to review, Erik. I think you might want to Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Peterson, Erik
Sent: Tuesday, October 09, 2018 6:30 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) - Draft Regional CMS for Tim Stephens - 404(c) Team Review Request

Hello 404(c) Team,

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Ex. 5 Deliberative Process (DP)

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U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 10/1/2018 8:13:08 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; shoemake.neverley@epa.gov[shoemake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 7/2/2018 7:45:03 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Meeting - 7/3/18

Hello BB 404(c) Team,

I propose that we cancel our call for tomorrow.

Below are a few updates for awareness (thank you Brittany and Ashley). Also, as appropriate, I'll provide more information after the bi-weekly check-in with David Allnutt that will happen at 9 am PST tomorrow.

FOIA

- Trustees for Alaska – Ex. 5 Deliberative Process (DP)
- E&E News & NRDC/CNN - Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
- NRDC/CNN Ex. 5 Deliberative Process (DP)

PLP memo: will share when I have something

QFR: will share when I have something

Western Caucus response in CMS for Lee F.

EPA scoping letter sent 6/29

Ex. 5 Deliberative Process (DP)

AK Governor 6/29 letter requests Corps to suspend permitting process

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
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(206) 553-6382

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To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Fri 8/3/2018 10:57:22 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Meeting - 7/24/18

Hello BB 404(c) Team,

We will not have a 404(c) call on 8/7/18.

Below are a few updates for awareness. Let me know if you have new information on these updates, or, if you have suggestions for additional items this team should be tracking.

Updates

30 minute check-in with Linda A-C on 8/1.

Ex. 5 Deliberative Process (DP)

Permit Oversight/ NEPA Review Team

- Patty, Chris E. and Tim. M visited the site 7/31. Reported that the visit was valuable.
- There was also some opportunity for EPA technical experts to meet with their counterparts in the process.

FOIA

Ex. 5 Deliberative Process (DP)

De fazio and Carter Letter

- Palmer has the lead on response, will include 404(c) team as appropriate

PLP leadership meeting

- Discuss 8/13 or next 404(c) team meeting

Western Caucus Gosar et al response

- Lee F agreed to sign final version 7/25

Ex. 5 Deliberative Process (DP)

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Bennett, Brittany[bennett.brittany@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Tue 7/10/2018 12:33:43 AM (UTC)
Subject: QFR Cal 028-032
CAL - 028-032.docx

FYI...

Attached is the apparently final version of the response to Representative Calvert.

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Spraul, Greg
Sent: Thursday, July 05, 2018 11:52 AM
To: Peterson, Erik <Peterson.Erik@epa.gov>
Subject: RE: HEC and HAC QFR responses

Erik,

OCFO sent us what they said is the final.

From: Peterson, Erik
Sent: Monday, July 02, 2018 1:44 PM
To: Spraul, Greg <Spraul.Greg@epa.gov>
Subject: RE: HEC and HAC QFR responses

Greg,

Any update on the HEC and HAC QFR responses?

Are they with OMB currently?

Thank you for any info. you may have.

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Spraul, Greg
Sent: Monday, June 25, 2018 2:12 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>
Subject: Re: HEC and HAC QFR responses

No update. The next step is OMB clearance
On Jun 25, 2018, at 4:11 PM, Peterson, Erik <Peterson.Erik@epa.gov> wrote:

AMERICAN OVERSIGHT

Hello Greg,

I'm open to contacting Brian Frazer or Russel Kaiser as you suggest.

Writing you first because we have already talked (thank you for helping me out).

Do you have any updates on the HEC and HAC QFR responses that you shared drafts of with me on 6/11?

I would like to update the Bristol Bay 404(c) Team, which includes members of OW, OGC, and several Region 10 offices.

<image001.jpg>

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Spraul, Greg
Sent: Monday, June 11, 2018 11:28 AM
To: Peterson, Erik <Peterson.Erik@epa.gov>
Cc: Frazer, Brian <Frazer.Brian@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>
Subject: HEC and HAC QFR responses

Erik,

These are internal to EPA only.

Per your request. Attached is the latest. These are not final.

If you have any questions, please contact Brian Frazer and/or Russ Kaiser.

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 10/23/2018 3:56:03 PM
To: Fordham, Tami [Fordham.Tami@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 10/23/2018 4:00:00 PM
End: 10/23/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

NEPA Review

FOIA – E&E News

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; shoemake.neverley@epa.gov[shoemake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 6/18/2018 6:01:51 PM (UTC)
Subject: Bristol Bay 404(c) Team Call - 6/19/18

Hello BB 404(c) Team,

I propose we cancel the 404(c) team call tomorrow, 6/19/18. Also, at this point, my plan is to have the call on 6/26. The next Allnutt Check-in is 7/3.

Items that we are currently tracking include the following. Please let me know if there is other 404(c) related work that you are engaged in and/or if you have an agenda item to suggest for 6/26.

FOIA

HEC and HAC QFR Responses

PLP Response

Western Caucus Response

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 5/21/2018 8:22:15 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Call - 5/22

Hello BB 404(c) Team,

Draft agenda items for 5/22 Tuesday call. Please send any additional items by COB EST 5/21.

- FOIA
- PLP response
- Congressional letter
- HAC QFR
- FYI Correspondence

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 5/7/2018 7:09:46 PM (UTC)
Subject: Bristol Bay 404(c) Team Call - 5/8/18 - Draft Agenda

Hello 404(c) Team,

Our 404(c) team meeting will happen tomorrow. Please let me know if you have agenda suggestions.

Draft Agenda

- FOIA
- PLP letters
- Allnutt Check-in

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Bennett, Brittany[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3D7B265C202C467791CA4D4AC6B8DB8B-BENNETT, BR]
Sent: Tue 5/8/2018 7:51:19 PM (UTC)
Subject: RE: FYI - Congressional Western Caucus Statement

Here is the PDF of the letter, which was embedded in the text of the online statement.
https://westerncaucus.house.gov/uploadedfiles/5-3_pebble_final_signed.pdf

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Bennett, Brittany
Sent: Tuesday, May 08, 2018 3:48 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: FYI - Congressional Western Caucus Statement

https://westerncaucus.house.gov/news/documentsingle.aspx?DocumentID=1508

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

-----Original Appointment-----
From: Peterson, Erik
Sent: Monday, April 23, 2018 3:04 PM
To: Peterson, Erik; Steiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Ortiz, Michael; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Wake, Neverley; Hough, Palmer; Herbst, John
Subject: Bristol Bay 404(c) Team Call
When: Tuesday, May 08, 2018 12:30 PM-1:30 PM (UTC-08:00) Pacific Time (US & Canada).
Where: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Fri 5/25/2018 11:57:11 PM (UTC)
Subject: Bristol Bay 404(c) Team Call - 5/29/18

Hello BB 404(c) Team,

I propose we cancel the BB 404(c) team call 5/29. Please let me know if you have something pressing and think we need to meet.

A few updates:

- Some ongoing discussion regarding the HAC QFR, primarily in OGC

- Please send edits or comments on the Western Caucus Draft Response by **5/30**. See Brittany's 5/24 email for more information.

Draft agenda items for 6/5 Tuesday call. Please send any agenda input by **June 1st** if possible. (I am out 6/4-6/8 and am aiming to support Tuesday call and Allnutt check-in as best I can prior to leaving.)

- FOIA

- Project update

- PLP response

- Western Caucus Response

- HAC QFR

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Peterson, Erik
Sent: Monday, May 14, 2018 1:19 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Shoemake, Neverley <shoemake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) Team Call - 5/15

AMERICAN OVERSIGHT

Hello BB 404(c) Team,

I propose we cancel the BB 404(c) team call for tomorrow, 5/15. Please let me know if you have something pressing and think we need to meet.

A few updates:

- Heidi and Ashley working on PLP response, will send to Palmer, Brittany and Erik for review prior to sending to Allnutt and Carrie Wehling. Plan to discuss on 5/22 before Allnutt Check-in.

- Reminder to document external meetings using our sharepoint at: External Meetings SharePoint Link.

Draft agenda items for 5/22 Tuesday call. Please send any additional items by COB EST 5/21.

- FOIA

- PLP response

- HAC QFR

- Congressional letter

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 4/30/2018 6:57:58 PM (UTC)
Subject: Bristol Bay 404(c) Team Call - 5/1/18 - Draft Agenda
20180425125804.pdf
20180425160309.pdf

Hello 404(c) Team,

I'm proposing that we have our team call tomorrow given that these letters include a request for a meeting.

Draft Agenda

- FOIA

- PLP letters to Administrator Pruitt

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Allnutt, David[Allnutt.David@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Mon 4/30/2018 6:46:57 PM (UTC)
Subject: RE: 2 recent letters to Pruitt re Pebble/BB

Hi –

Thanks, all, for your patience on this. Heidi and I have confirmed with our docket experts in OGC that, as discussed during our last weekly, Ex. 5 AC/DP

Ex. 5 AC/DP In addition, we

Ex. 5 Deliberative Process (DP)

I do continue to recommend that we stay organized. And to that end, all FYI correspondence is going to get funneled through Eric, who is going to maintain it on our G drive. Emails sent to Michelle and the Bristol Bay list serv are being maintained in email form. If we need to do additional pulls from email at a later date, we can do that.

If you have any questions, happy to discuss.

Ashley

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, ORC-113
Seattle, WA 98101
206-553-8582

From: Skadowski, Suzanne
Sent: Monday, April 23, 2018 9:19 AM
To: Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>
Subject: RE: 2 recent letters to Pruitt re Pebble/BB

Ex. 5 Deliberative Process (DP)

Suzanne Skadowski
Public Affairs | Media Relations Specialist
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: 206-900-3309
Twitter: @EPAnorthwest
Facebook: @eparegion10

From: Lindsay, Andrea
Sent: Monday, April 23, 2018 9:10 AM
To: Peterson, Erik <Peterson.Erik@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Bennett, Brittany

AMERICAN OVERSIGHT

<bennett.brittany@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; Herbst, John <herbst.john@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>
Subject: RE: 2 recent letters to Pruitt re Pebble/BB

Erik, I'll be very interested in the outcome of this discussion. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

-Andrea

From: Peterson, Erik
Sent: Friday, April 20, 2018 2:38 PM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; Herbst, John <herbst.john@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>
Subject: RE: 2 recent letters to Pruitt re Pebble/BB

I suggest talking about this on Tuesday. Ashley is checking with OGC.

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Hough, Palmer
Sent: Friday, April 20, 2018 1:43 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; Herbst, John <herbst.john@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>
Subject: RE: 2 recent letters to Pruitt re Pebble/BB

Ex. 5 Deliberative Process (DP)

From: Bennett, Brittany
Sent: Friday, April 20, 2018 4:37 PM
To: Hough, Palmer ; Allnutt, David ; Herbst, John ; Lindsay, Andrea ; Nalven, Heidi ; Ortiz, Michael ; Palomaki, Ashley ; Peterson, Erik ; Skadowski, Suzanne ; Steiner-Riley, Cara ; Wake, Neverley ; Wehling, Carrie ; Whitley, Annie
Subject: RE: 2 recent letters to Pruitt re Pebble/BB

Ex. 5 Deliberative Process (DP)

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896

AMERICAN OVERSIGHT

Bennett.Brittany@epa.gov

From: Hough, Palmer
Sent: Thursday, April 19, 2018 2:30 PM
To: Allnutt, David <Allnutt.David@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Herbst, John <herbst.john@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>
Subject: 2 recent letters to Pruitt re Pebble/BB

Folks:

Pruitt's office received the attached two letters recently regarding Pebble/BB, both were passed along to me with no instructions.

Ex. 5 Deliberative Process (DP)

Thanks, Palmer

Palmer Hough, Environmental Scientist
office: 202.566.1374

Office of Wetlands, Oceans, and Watersheds
U.S. EPA Headquarters (MC 4504T)
1200 Pennsylvania Avenue, NW
Washington, DC 20460
www.epa.gov/wetlands

AMERICAN OVERSIGHT

To: Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Hough, Palmer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51CD0B0D81AC416FA265944D6E6575CE-PHOUGH]
Sent: Tue 6/26/2018 3:36:27 PM (UTC)
Subject: FW: URGENT ACTION: FW: Latest draft memo
Timing of 404(c) Action Summary.docx

FYI

From: Hough, Palmer
Sent: Tuesday, June 26, 2018 10:40 AM
To: Frazer, Brian <Frazer.Brian@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Subject: RE: URGENT ACTION: FW: Latest draft memo

Folks:

In case anyone is interested in the relevant facts regarding EPA's past use of 404(c). Attached is a table the lists the timing of EPA's 13 404(c) actions relative to a 404 permit application.

A number of things jump out:

- EPA has only used this authority a total of 13 times in the 46-year history of the CWA during which time the Corps has authorized more than two million activities in the nation's waters – Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
- Of the 13 times EPA has used its 404(c) authority, two of these involved circumstances where permit applications has not yet been submitted to the Corps and four involved circumstances where permits had already been issued. Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)
- Of the 13 times EPA has used it 404(c) authority, 11 of those were by Republican administrations. Also, both advance 404(c) actions were taken by Republican Administrations (Reagan) and two of the four post-permit issuance 404(c) actions were taken by Republican Administrations (Reagan and GHW Bush). Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)

Also, and I know I'm stating the obvious:

Ex. 5 Deliberative Process (DP)

-Palmer

From: Frazer, Brian
Sent: Tuesday, June 26, 2018 8:41 AM
To: Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: FW: URGENT ACTION: FW: Latest draft memo

Please keep Close Hold

From: Goodin, John
Sent: Monday, June 25, 2018 5:36 PM
To: Frazer, Brian <Frazer.Brian@epa.gov>
Subject: URGENT ACTION: FW: Latest draft memo

Brian—let's chat first thing tomorrow re: a path forward here. Content will depend on input from Palmer and Heidi at a minimum. Do not circulate beyond close hold folks to generate Dave's info—not sure that this is the final attachment.
Thanks
John

AMERICAN OVERSIGHT

To: Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]
From: Hough, Palmer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51CD0B0D81AC416FA265944D6E6575CE-PHOUGH]
Sent: Wed 5/23/2018 3:16:42 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Call -- follow up info

Thank you!!

From: Skadowski, Suzanne
Sent: Wednesday, May 23, 2018 11:13 AM
To: Peterson, Erik <Peterson.Erik@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>
Subject: RE: Bristol Bay 404(c) Team Call -- follow up info

Murkowski statements re Pebble PD withdrawal:

Murkowski Reacts to EPA's Pebble Announcement

"Administrator Pruitt is taking a balanced approach by allowing Pebble to enter the permitting process, while noting EPA's duty to fully protect the region's world-class fisheries," Murkowski said. "With the company now having filed its application, I expect that a fair, rigorous, and transparent process will soon begin so that Alaskans can understand the impacts and risks, as well as the potential benefits associated with this project." Murkowski, the Chairman of the Energy and Natural Resources Committee, worked with EPA to extend the comment period on its proposed withdrawal by 90 days. This was necessary to ensure that all Alaskan stakeholders, including commercial fishermen, would have an opportunity to weigh in.

EPA admin's Pebble decision surprised Murkowski, she says

Environmental Protection Agency Administrator Scott Pruitt took a left turn on the proposed Pebble mine last month. If you were surprised, then you're not alone. U.S. Sen. Lisa Murkowski was, too. Pruitt announced a decision to keep alive a proposal from the Obama administration to protect the headwaters of Bristol Bay, a proposal Murkowski and other Republicans had complained was egregious federal overreach.

Murkowski got the news from Pruitt, just before the public announcement. "I was just generally surprised. I think part of it is because the administrator has typically taken an approach that less reg – I don't want to say less regulation," Murkowski said, pausing to choose her words carefully. "He has been more favorably inclined to find paths forward where there have been regulatory impediments placed."

Murkowski has not taken a position for or against the mine. But she was highly critical when President Barack Obama's EPA proposed restrictions on Pebble, prohibiting it from damaging more than five miles of fish streams, among other limits. Murkowski called that a "pre-emptive veto." Pebble had not yet applied for its permits. Murkowski said what the Trump administration has done is different. "The action that they took does not halt Pebble's application," Murkowski said. "It says that they may continue through that process. That's the difference."

But Obama's EPA administrator said her action wasn't blocking Pebble's application, either. "If the company is ready for permit application, they're still free to submit that, and we'd encourage that," then-administrator Gina McCarthy said at a 2014 hearing, answering questions from Murkowski. Pebble did not file its application until late last year. Murkowski said Pruitt wants a credible process and has set a high bar for Pebble to meet.

Governor Walker's statements:

Walker speaks out against Pebble Mine as company announces new mine plan
"I am not supportive of the Pebble Mine," Walker told Alaska Public ... Lisa Murkowski's office, the senator "is not willing to trade salmon for gold.

In reversal, EPA deals setback to controversial gold mining proposal in Alaska
In a statement released by the EPA, Gov. Bill Walker (I) thanked the agency "for listening to my input, as well as the input of

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thousands of Alaskans who oppose rescinding" the Obama-era assessment. Walker said he had discussed the mine repeatedly with Pruitt, "and I have shared with him my belief that in the Bristol Bay region we should prioritize the resource that has sustained generations and must continue to do so in perpetuity."

From: Peterson, Erik
Sent: Monday, May 14, 2018 1:19 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) Team Call - 5/15

Hello BB 404(c) Team,

I propose we cancel the BB 404(c) team call for tomorrow, 5/15. Please let me know if you have something pressing and think we need to meet.

A few updates:

- Heidi and Ashley working on PLP response, will send to Palmer, Brittany and Erik for review prior to sending to Allnutt and Carrie Wehling. Plan to discuss on 5/22 before Allnutt Check-in.

- Reminder to document external meetings using our sharepoint at: External Meetings SharePoint Link.

Draft agenda items for 5/22 Tuesday call. Please send any additional items by COB EST 5/21.

- FOIA

- PLP response

- HAC QFR

- Congressional letter

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Thur 12/20/2018 4:01:50 AM (UTC)
Subject: FW: Draft response to Pebble Limited Partnership letter
19-000-1541_Collier Draft Letter.docx
19-000-1541_Correspondence.pdf

Matt, Ryan,

OGC staff shared with me the attached draft response to the latest letter that the Pebble Limited Partnership sent to the Administrator on December 5. My understanding is that the correspondence was controlled to Region 10 for a response. Staff informed me that Lee F. has approved the attached draft and that the R10 RA intends to sign it by Friday. I have a few minor comments regarding the wording of the draft. However, I wanted to flag this for you because it seems to me Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Please let me know if we should discuss.

Best,

David

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 7/15/2019 10:46:16 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Tomiak, Robert [tomiak.robert@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Barnhart, Megan [barnhart.megan@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; LaCroix, Matthew [LaCroix.Matthew@epa.gov]; Szerlog, Michael [Szerlog.Michael@epa.gov]; Hoppe, Allison [hoppe.allison@epa.gov]; Schaedle, Candi [Schaedle.Candi@epa.gov]; Marshall, Tom [marshall.tom@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Opalski, Dan [Opalski.Dan@epa.gov]; Chung, Angela [Chung.Angela@epa.gov]; Grandinetti, Cami [Grandinetti.Cami@epa.gov]; Baca, Andrew [Baca.Andrew@epa.gov]
CC: Castanon, Lisa [Castanon.Lisa@epa.gov]

Subject: Bristol Bay Career Leadership Bi-Weekly Check-in
Location: R10Sea-Room-13Heron/R10-Rooms-Service-Center; DCRoomWest7129

Start: 7/17/2019 5:30:00 PM
End: 7/17/2019 6:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Wednesday from 10:30 AM to 11:30 AM

Draft Agenda

NEPA/404
- 404q

404c
- Leopold memo Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional Realignment and Bristol Bay

→ Join by Phone
Toll number: Ex. 6 Personal Privacy (PP)
Conference I

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer
Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 6/14/2019 6:14:10 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Tomiak, Robert [tomiak.robert@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Barnhart, Megan [barnhart.megan@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; LaCroix, Matthew [LaCroix.Matthew@epa.gov]; Szerlog, Michael [Szerlog.Michael@epa.gov]; Hoppe, Allison [hoppe.allison@epa.gov]; Schaedle, Candi [Schaedle.Candi@epa.gov]; Marshall, Tom [marshall.tom@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]

Subject: Bristol Bay Career Leadership Bi-Weekly Check-in
Attachments: Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: R10Sea-Room-13Heron/R10-Rooms-Service-Center; DCRoomWest7129

Start: 7/17/2019 5:30:00 PM
End: 7/17/2019 6:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Wednesday from 10:30 AM to 11:30 AM

Draft Agenda

NEPA/404

404c
- Revisit when to seek additional public comment on 404(c)

RFC

Correspondence

FOIA

Materials
- Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx

→ Join by Phone
Toll number: Ex. 6 Personal Privacy (PP)
Conference ID:

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Join Skype Meeting
Trouble Joining? Try Skype Web App

→ Meeting Organizer
Erik Peterson, USEPA (206) 553-6382 office

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 7/3/2019 5:23:21 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Tomiak, Robert [tomiak.robert@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Barnhart, Megan [barnhart.megan@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; LaCroix, Matthew [LaCroix.Matthew@epa.gov]; Szerlog, Michael [Szerlog.Michael@epa.gov]; Hoppe, Allison [hoppe.allison@epa.gov]; Schaedle, Candi [Schaedle.Candi@epa.gov]; Marshall, Tom [marshall.tom@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Opalski, Dan [Opalski.Dan@epa.gov]; Chung, Angela [Chung.Angela@epa.gov]; Grandinetti, Cami [Grandinetti.Cami@epa.gov]

Subject: Bristol Bay Career Leadership Bi-Weekly Check-in
Attachments: RFC 19001 interim 062019.pdf
Location: On the phone; and in 12 camas

Start: 7/3/2019 5:30:00 PM
End: 7/3/2019 6:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Wednesday from 10:30 AM to 11:30 AM

Agenda

NEPA/Permitting
- 404q

Pebble 404c Leopold Memo – Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional reorganization briefing

Press

RFC (see attached)

Correspondence plan

FOIA

CMS

→ Join by Phone
Toll number: Ex. 6 Personal Privacy (PP)
Conference I

Local numbers: Seattle Ex. 6 Personal Privacy (PP), Anchorage Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Hoppe, Allison[hoppe.allison@epa.gov]; Marshall, Tom[marshall.tom@epa.gov]
From: Schwab, Justin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: Wed 6/27/2018 6:34:38 PM (UTC)
Subject: Fwd: Most recent letter with HQ comments
Pebble Project Scoping 060518 draft HQ Review.docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Feeley, Drew (Robert)" <Feeley.Drew@epa.gov>
Date: June 27, 2018 at 2:14:55 PM EDT
To: "Schwab, Justin" <Schwab.Justin@epa.gov>
Subject: Fwd: Most recent letter with HQ comments

Sent from my iPhone

Begin forwarded message:

From: "Knight, Kelly" <knight.kelly@epa.gov>
Date: June 27, 2018 at 11:14:29 AM EDT
To: "Tomiak, Robert" <tomiak.robert@epa.gov>, "Feeley, Drew (Robert)" <Feeley.Drew@epa.gov>
Subject: FW: Most recent letter with HQ comments

This is the most recent version with HQ comments.

From: Barnhart, Megan
Sent: Wednesday, June 27, 2018 10:46 AM
To: Knight, Kelly <knight.kelly@epa.gov>
Subject: Most recent letter with HQ comments

……..
Megan Barnhart
U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Division
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Phone: 202-564-5936

AMERICAN OVERSIGHT

To: Hoppe, Allison[hoppe.allison@epa.gov]; Marshall, Tom[marshall.tom@epa.gov]
From: Schwab, Justin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: Sat 6/30/2018 7:00:29 PM (UTC)
Subject: would this have had any relevance to the pebble letter?

https://www.eenews.net/greenwire/2018/06/26/stories/1060086515

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Tue 8/28/2018 4:00:00 PM (UTC)
End Time:	Tue 8/28/2018 5:00:00 PM (UTC)
Required Attendees:	Anderson-Carnahan, Linda; Allnutt, David; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Mendelman, Krista; Stern, Allyn
Optional Attendees:	Detwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 10/9/2018 3:48:24 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 10/9/2018 4:00:00 PM
End: 10/9/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 11/5/2018 8:45:50 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/6/2018 5:00:00 PM
End: 11/6/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/14/2018 9:55:54 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 11/16/2018 8:06:38 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/20/2018 5:00:00 PM
End: 11/20/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 10/1/2018 7:58:07 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Canceled: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/7/2018 5:00:00 PM
End: 11/7/2018 6:00:00 PM
Show Time As: Free

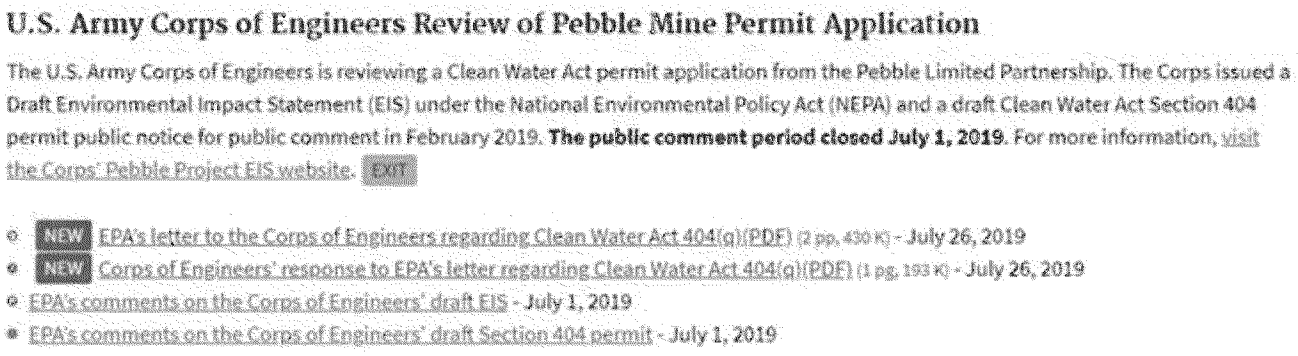
Importance: High

Recurrence: Weekly
every 2 week(s) on Wednesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

To: Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]; Detwiler, Susan K.[detwiler.susan@epa.gov]; Fordham, Tami[Fordham.Tami@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Opalski, Dan[Opalski.Dan@epa.gov]; McGrath, Patricia[mcgrath.patricia@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Brown, Leah[Brown.Leah@epa.gov]; Castanon, Lisa[Castanon.Lisa@epa.gov]; Vaughan, Molly[Vaughan.Molly@epa.gov]; Herbst, John[herbst.john@epa.gov]; Wilson, Wenona[Wilson.Wenona@epa.gov]; Murphy, Stacy[Murphy.Stacy@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Allnutt, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6E28F5BF9CBF4B8B9EDA7751C2F10750-ALLNUTT, DAVID]
Sent: Tue 7/30/2019 7:32:21 PM (UTC)
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

The website currently looks like this:



U.S. Army Corps of Engineers Review of Pebble Mine Permit Application

The U.S. Army Corps of Engineers is reviewing a Clean Water Act permit application from the Pebble Limited Partnership. The Corps issued a Draft Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) and a draft Clean Water Act Section 404 permit public notice for public comment in February 2019. **The public comment period closed July 1, 2019.** For more information, visit the Corps' Pebble Project EIS website. EXIT

- NEW EPA's letter to the Corps of Engineers regarding Clean Water Act 404(q)(PDF) (2 pp, 430 K) - July 26, 2019
- NEW Corps of Engineers' response to EPA's letter regarding Clean Water Act 404(q)(PDF) (1 pg, 193 K) - July 26, 2019
- EPA's comments on the Corps of Engineers' draft EIS - July 1, 2019
- EPA's comments on the Corps of Engineers' draft Section 404 permit - July 1, 2019

EPA's letter is date-stamped July 25, 2019. The Corps' response letter is undated.

R. David Allnutt, Acting Director
Superfund & Emergency Management Division
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155, 14-D12
Seattle, Washington 98101-3123
(206) 553-2581

From: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Sent: Tuesday, July 30, 2019 11:39 AM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Thanks, fixing now.

From: Hough, Palmer <Hough.Palmer@epa.gov>
Sent: Tuesday, July 30, 2019 11:33 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>

AMERICAN OVERSIGHT

Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Suzanne – why are we calling EPA's July 25 letter to Army "EPA's Request to U.S. Army Corps for 90-day Extension Regarding Clean Water Act Section 404(q)". Our request letter makes no mention of a 90-day extension request.

-Palmer

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 2:23 PM
To: Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>
Subject: FW: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Sent to our regional Bristol Bay news media contacts list.

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 11:20 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Cc: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Good Morning:

Sharing today's news release from EPA's Headquarters office in Wash. DC. If you have any questions or need any more information about this announcement, please email press@epa.gov.

Link to a pre-publication notice of the withdrawal of the 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination:
https://www.epa.gov/bristolbay/notification-decision-withdraw-proposed-determination-restrict-use-area-disposal-site

Link to EPA and Corps of Engineers letters regarding the Pebble Mine Clean Water Act 404(q) permit review process:
https://www.epa.gov/bristolbay/epas-comments-us-army-corps-engineers-draft-section-404-permit

Thank you,

Suzanne

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: EPA Press Office <press@epa.gov>
Sent: Tuesday, July 30, 2019 1:53 PM

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Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) - Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

"After today's action EPA will focus on the permit review process for the Pebble Mine project," **said Region 10 Administrator Chris Hladick**. "The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014."

By withdrawing the 2014 Proposed Determination, which was issued preemptively and is now outdated, the agency can continue its focus on fulfilling its responsibilities under the Clean Water Act to work with the Army Corps to review the permit."

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process.

"Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**.

EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act

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Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

<image001.png>

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest

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Washington, D.C. 20004

Unsubscribe

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From: Penman, Crystal[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=93662678A6FD4D4695C3DF22CD95935A-PENMAN, CRYSTAL]

Location: 3233 WJCE

Importance: High

Subject: Canceled: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options

Start Time: Wed 3/7/2018 9:00:00 PM (UTC)

End Time: Wed 3/7/2018 10:00:00 PM (UTC)

Required Attendees: Fotouhi, David; Hladick, Christopher

Optional Attendees: Tyson, Linda; Steiner-Riley, Cara; Neugeboren, Steven; Palomaki, Ashley; Kaiser, Russell; Bennett, Brittany; Skadowski, Suzanne; Shoemake, Neverley; McGrath, Patricia; Allnutt, David; Wehling, Carrie; Nalven, Heidi; Hough, Palmer; Goodin, John; Peterson, Erik; Stern, Allyn; Connors, Sandra

R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx

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Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 10/1/2018 7:58:07 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Canceled: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/7/2018 5:00:00 PM
End: 11/7/2018 6:00:00 PM
Show Time As: Free

Importance: High

Recurrence: Weekly
every 2 week(s) on Wednesday from 9:00 AM to 10:00 AM

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

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SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between the United States of America, acting through the United States Department of Justice and on behalf of Defendants, the United States Environmental Protection Agency ("EPA") and EPA's Administrator (collectively, the "United States" or "Defendants"), and Plaintiff, the Pebble Limited Partnership ("PLP") (hereafter collectively referred to as "the Parties").

I. **DEFINITIONS.** Unless otherwise noted, the following definitions apply in this Settlement Agreement, and for the purposes of this Settlement Agreement alone:

A. "FACA Lawsuit" means *Pebble Ltd. P'ship v. EPA, et al.*, No. 3:14-cv-00171-HRH, D. Alaska.

B. "FOIA Lawsuit" means *Pebble Ltd. P'ship v. EPA*, No. 3:14-cv-00199-HRH, D. Alaska.

C. "Plaintiff," "PLP," or "Pebble" means Pebble Limited Partnership, and for the purposes of the Terms and Conditions and Dispute Resolution sections of this Settlement Agreement includes Northern Dynasty Minerals ("NDM"), Hunter Dickinson Inc. ("HDI"), or anyone acting on PLP's, or NDM's, or HDI's behalf.

D. "Defendants" means the United States Environmental Protection Agency and its Administrator, Scott Pruitt, in his official capacity.

E. "Effective Date" of this Settlement Agreement means the date on which the Court dissolves the Preliminary Injunction and dismisses the FACA Lawsuit with prejudice. Should those events occur on different dates, the effective date shall be the date on which the later in time event occurs.

F. "Preliminary Injunction" means the preliminary injunction entered on November 25, 2014, at Docket No. 90 in the FACA Lawsuit.

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G. "Proposed Determination" means EPA Region 10's July, 2014 Clean Water Act ("CWA") Section 404(c) Proposed Determination associated with mining the Pebble deposit.

H. "Recommended Determination" means a CWA Section 404(c) Recommended Determination by EPA pursuant to 40 C.F.R. § 231.5 affirming or modifying the Proposed Determination or any other proposed determination relating to the Pebble Deposit issued by EPA pursuant to 40 C.F.R. § 231.3.

I. "Permit Application" means the first United States Army Corps of Engineers ENG Form 4345 filed by PLP, or its equivalent form if United States Army Corps of Engineers ENG Form 4345 is amended or revised.

II. RECITALS

A. PLP's wholly-owned subsidiaries, Pebble East Claims Corp. and Pebble West Claims Corp., hold the mineral claims to the Pebble deposit, which is located approximately 200 miles southwest of Anchorage and approximately 15 miles north of Lake Iliamna in the Bristol Bay watershed and in the Nushagak River and Kvichak River watersheds, which are also within the Bristol Bay watershed. The Pebble deposit is on land owned by the State of Alaska in the Lake and Peninsula Borough. The Pebble deposit contains copper, molybdenum, and gold. In July of 2014, EPA Region 10 issued a Proposed Determination under CWA Section 404(c). The Proposed Determination proposed restrictions to the discharge of dredged and fill material associated with mining the Pebble deposit.

B. In response, PLP filed a number of lawsuits against EPA and its Administrator and indicated that it might file others. These suits included: (1) a May 21, 2014 suit against EPA in the United States District Court for the District of Alaska, claiming that EPA's Section 404(c) Proposed Determination regarding the Pebble Mine project was a violation of federal law (*Pebble Ltd. P'ship v. EPA, et al.*, No. 3:14-cv-00097-HRH, D. Alaska); (2) a September 3, 2014 action against

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EPA and its Administrator in the United States District Court for the District of Alaska alleging violations of the Federal Advisory Committee Act (FACA Lawsuit); and (3) an October 14, 2014, suit against EPA under the Freedom of Information Act (FOIA Lawsuit). PLP also indicated that it was considering filing other claims, including under the North American Free Trade Agreement ("NAFTA"), the Anti-Lobbying Act, the Freedom of Information Act ("FOIA"), the Federal Records Act ("FRA"), the 1992 Memorandum of Agreement between EPA and the Department of the Army pursuant to Clean Water Act Section 404(q) ("404(q) MOA"), and the Administrative Procedure Act ("APA").

C. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above pending and potential claims, without any admission or adjudications of fact or law, and in consideration of the mutual promises and obligations set forth in this Settlement Agreement, the Parties have determined to settle the actual and potential disputes between them on the following terms and conditions.

III. TERMS AND CONDITIONS

A. As consideration for settlement of the various actual and potential disputes described above, the Parties hereby agree as follows:

1. If PLP does not submit a CWA Section 404 Permit Application[1] regarding the Pebble deposit to the U.S. Army Corps of Engineers (Corps) within 30 months from the Effective Date of the Settlement Agreement, the Regional Administrator or his/her designee may, at any time thereafter, forward a signed Recommended Determination and administrative record to EPA Headquarters pursuant to 40 C.F.R. § 231.5(b). If PLP submits such a Permit Application within 30 months from the Effective Date of the Settlement Agreement, the Regional

[1] The date of submission of the Permit Application referenced herein shall be the first date after the Effective Date of this Settlement Agreement on which PLP submits to the United States Army Corps of Engineers the United States Army Corps of Engineers ENG Form 4345, or its equivalent form if United States Army Corps of Engineers ENG Form 4345 is amended or revised.

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Administrator or his/her designee may not forward a signed Recommended Determination and administrative record to EPA Headquarters pursuant to 40 C.F.R. § 231.5(b) until EPA publishes a notice in the Federal Register of the final Environmental Impact Statement (EIS) regarding PLP's Permit Application pursuant to 40 C.F.R. § 1506.10(a) or 48 months from the Effective Date of the Settlement Agreement, whichever is earlier in time. The requirements of this paragraph shall not be binding if any of the following events occur, as of the date that the relevant event occurs: (1) the Corps decides that an EIS is not necessary for PLP's CWA Section 404 Permit Application regarding the Pebble deposit; (2) PLP withdraws or suspends pursuant to 33 C.F.R. § 325. 2(d)(3)(v)) its CWA Section 404 Permit Application; (3) the Corps determines that PLP's CWA Section 404 permit application is withdrawn pursuant to 33 C.F.R. §325.2(d)(5)); or (4) PLP transfers a controlling interest in the claims to the Pebble deposit, or if PLP enters into a partnership, joint venture or other similar arrangement under which an unrelated third party is granted a controlling interest in the rights to develop the Pebble deposit. For purposes of this subsection III.A.1(4), "PLP" means solely Pebble Limited Partnership and its wholly-owned subsidiaries Pebble East Claims Corp. and Pebble West Claims Corp., and does not include Northern Dynasty Minerals ("NDM"), Hunter Dickinson Inc. ("HDI"), or anyone acting on PLP's, or NDM's, or HDI's behalf. Change of control does not include changes in ownership or control of PLP itself, nor of NDM, nor of HDI, nor the granting of any security interests over PLP or its assets, nor a restructuring of PLP (so defined) to establish PLP as a corporation, rather than a limited partnership.

2. PLP will waive any claims that EPA's use of contractors or Senior Environmental Employment enrollees ("SEE enrollees") for any purpose related to EPA's activities relating to Bristol Bay is a Federal Advisory Committee Act violation, even if such use of contractors or SEE enrollees post-dates the execution of the Settlement Agreement.

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3. EPA may use the Bristol Bay Watershed Assessment without any limitation.

4. Contemporaneously with the execution and delivery of this Settlement Agreement, the Parties, by and through counsel, will execute a Joint Motion to Dissolve the Preliminary Injunction and Stipulation to Dismiss with Prejudice in the FACA Lawsuit; and execute a Stipulation of Dismissal with Prejudice in the FOIA Lawsuit, in the forms appended hereto as Exhibits A and B. Within three business days after execution of this Settlement Agreement, counsel for Plaintiff shall file the executed Joint Motion to Dissolve the Preliminary Injunction and Stipulation to Dismiss with Prejudice in the FACA Lawsuit and the executed Stipulation of Dismissal with Prejudice in the FOIA Lawsuit with the United States District Court for the District of Alaska.

5. Within 60 days after the dissolution of the Preliminary Injunction, the Regional Administrator or his/her designee will initiate a process to propose to withdraw the Proposed Determination, consistent with the requirements of 40 C.F.R. § 231.5.

6. PLP will not challenge EPA's authority to exercise CWA Section 404(c) in the absence of a Permit Application or a decision on a Permit Application, if EPA follows a CWA Section 404(c) process consistent with the terms of this Settlement Agreement.

7. Except for a legal action pursuant to Section IV of this Agreement, PLP will not file any other Bristol Bay-related legal actions against EPA until after the expiration of any of the timeframes limiting the Regional Administrator's ability to forward to EPA headquarters a signed Recommended Determination as discussed in Section III.A.1 of this agreement.

8. PLP will not file any new FOIA requests with EPA or any other federal agency pertaining to EPA's activities relating to the Bristol Bay watershed until after the expiration of any of the timeframes limiting the Regional Administrator's ability to forward to EPA headquarters a signed Recommended Determination as discussed in Section III.A.1 of this agreement and

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any new request may not pertain to EPA's activities relating to the Bristol Bay watershed that occurred prior to November 25, 2014.

9. PLP will withdraw all of its pending FOIA requests. This provision applies to the FOIA request from Lankford and Reed on behalf of PLP relating to the 404(q) MOA, as well as any FOIA requests filed by or on behalf of PLP with EPA's Office of Inspector General and any FOIA requests filed by or on behalf of PLP to any other federal agency related to EPA's activities relating to the Bristol Bay watershed. This provision includes but is not limited to the following EPA FOIA requests: EPA-R10-2014-007609, EPA-R10-2015-003765, EPA-HQ-2016-005609, EPA-HQ-2016-003773, EPA-HQ-2016-003769.

10. Each party will bear its own fees and costs in the FOIA and FACA Lawsuits and any fees, costs, or other administrative charges associated with the processing of PLP's pending FOIA requests.

11. Except for what is identified in Section III.A.12, PLP hereby forever waives, releases, acquits, and forever discharges Defendants from, and is hereby forever barred and precluded from prosecuting any and all claims, causes of action, motions, and requests for any injunctive, declaratory, and/or monetary relief, including but not limited to damages, tax payments, debt relief, costs, attorney's fees, expenses, and/or interest, whether presently known or unknown, contingent or liquidated, that relate to or arise out of any matters or issues alleged in: (a) the FACA Lawsuit; (b) the FOIA Lawsuit; or (c) that relate to or arise out of any matters or issues under the NAFTA, the FOIA, the FRA, CWA Section 404(q), or any other legal claims or challenges against EPA related to EPA's activities relating to Bristol Bay that occurred prior to November 25, 2014, including but not limited to the right to appeal any and all claims Plaintiff asserted in the FACA Lawsuit or the FOIA Lawsuit.

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12. Nothing in this Agreement should be construed as waiving an APA claim that PLP may attempt to bring against EPA challenging a final agency action under CWA Section 404(c).

B. The Parties further agree and represent as follows:

1. Each party to this Settlement Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.
2. This Settlement Agreement is governed by the laws of the United States. For purposes of construing this Settlement Agreement, it shall be deemed to have been drafted by all Parties to this Settlement Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.
3. This Settlement Agreement constitutes the complete agreement between the Parties. This Settlement Agreement may not be amended except by written consent of the Parties.
4. The undersigned counsel represent and warrant that they are fully authorized to execute this Settlement Agreement on behalf of the parties they represent.
5. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Settlement Agreement.
6. This Settlement Agreement is binding on PLP's successors, transferees, heirs, and assigns.
7. All Parties consent to the United States' and PLP's disclosure of this Agreement, and information about this Settlement Agreement, to the public.
8. The parties agree that good and sufficient consideration exists for the obligations and benefits described in this Settlement Agreement.
9. This Settlement Agreement is deemed executed on the date of signature of the last signatory to the Settlement Agreement. Facsimiles or electronic copies of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

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10. The provisions of this Settlement Agreement are severable, and any invalidity or unenforceability of any one or more of its provisions shall not cause the entire Settlement Agreement to fail or affect the validity or enforceability of the other provisions herein, which shall be enforced without the severed provision(s) in accordance with the remaining provisions of this Settlement Agreement.

11. Nothing in this Settlement Agreement shall constitute or be construed to constitute an admission of any wrongdoing or liability by Defendants, an admission by Defendants of the truth of any allegation or the validity of any claim asserted in the FACA Lawsuit, the FOIA Lawsuit, or any other actual or potential dispute between the Parties, a concession or admission by Defendants of any fault or omission of any act or failure to act, or an admission by Defendants that the consideration provided to Plaintiff herein represents relief that could be recovered by Plaintiff in or after any legal proceeding. Plaintiff may not offer, proffer, or refer to any of the terms of this Settlement Agreement as evidence in any civil, criminal, or administrative proceeding, other than as provided for in Section IV.

IV. Dispute Resolution. PLP may allege a breach of the terms and conditions of this Settlement Agreement only in the manner described as follows:

A. If PLP elects to file a motion pursuant to Fed. R. Civ. P. 60(b)(6) seeking relief from the dismissal of the FACA Lawsuit pursuant to Section III.A.4, such a motion shall be subject to this Section IV.A.

1. Should PLP make a motion pursuant to Fed. R. Civ. P. 60(b)(6) claiming that Defendants forwarded a Recommended Determination to EPA Headquarters prior to the expiration of the time periods set forth in Section III.A.1 above, Defendants, while reserving their right to oppose such a motion on the grounds that such conduct did not occur, agree that they

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would not oppose such a motion on the grounds that such conduct would not constitute a repudiation or complete frustration of the Settlement Agreement.

2. Should PLP bring a motion pursuant to Fed. R. Civ. P. 60(b)(6) on any other ground than those listed in Section IV.A.1, then this Settlement Agreement shall not be interpreted as a concession by Defendants that any such alleged breach constitutes a repudiation or complete frustration of the Settlement Agreement.

3. Defendants' consent to the filing of a motion pursuant to Section IV.A of this Agreement shall not be deemed to waive any available defenses to the substance of such motion, including without limitation any and all jurisdictional defenses and any right or authority to contend that no breach of this Settlement Agreement has occurred, and Defendants otherwise reserve all available defenses to such motion, including without limitation any and all jurisdictional defenses and any right or authority to contend that no breach of this Settlement Agreement has occurred.

4. The exclusive procedure for alleging a breach of the terms and conditions of this Settlement Agreement pursuant to this Section IV.A shall be as follows:

    a. Prior to filing any motion pursuant to Section IV.A, counsel for Plaintiff shall submit written notice alleging a breach of this Settlement Agreement to counsel for Defendants. Such notice shall be submitted by first-class mail and electronic mail, and shall specify precisely the basis for the alleged breach, the provision(s) of this Agreement that allegedly has been breached, the facts and circumstances supporting such claim, and whether relief will be sought under Fed. R. Civ. P. 60(b)(6) as set forth in Section IV.A. PLP shall not inform the Court of its allegation(s) at that time.

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b. The notice of any alleged breach of this Settlement Agreement by Defendants must be submitted within sixty (60) days after Plaintiff has, or should have had, knowledge of any alleged breach. The notice of any alleged breach shall accordingly not be operative unless submitted to Defendants within sixty (60) days after Plaintiff has, or should have had, knowledge of the alleged breach.

c. Defendants shall have a period of forty-five (45) days after the receipt of such notice to take appropriate action to resolve the alleged claim. If requested to do so, PLP shall provide to Defendants any information and materials available to PLP that support the violation alleged in the notice.

d. If any assertion of breach by PLP is not resolved after consultation between the Parties' counsel within the forty-five (45) day period set forth in Sections IV.A.4.b and IV.A.4.c, or if, prior to the expiration of such forty-five (45) day period, counsel for Defendants advise counsel for PLP that no further action will be taken by Defendants, PLP may seek relief from the Court as set forth in Section IV.A.

e. Notwithstanding any motion filed under Section IV.A, the Parties may continue to meet and confer in a good-faith attempt to resolve their dispute.

f. PLP's right to seek relief pursuant to this Section IV.A shall be subject to the limitations periods set forth in this Section IV.A.4, and any and all assertions of breach shall be forever waived if not asserted within the applicable limitations period.

B. This Settlement Agreement does not foreclose PLP from bringing any other measure to allege a breach by Defendants, but Defendants reserve the right to oppose such relief on any available ground, including without limitation any and all jurisdictional defenses and any right or authority to contend that no breach of this Settlement Agreement has occurred. PLP agrees, however,

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that it will seek relief through the mechanisms defined in Section IV.A prior to seeking relief through any other measure and shall only seek relief through other measures should the Court deny a motion made by PLP pursuant to Fed. R. Civ. P. 60(b)(6) concerning the alleged breach for which PLP seeks enforcement through other measures. Subject to Sections IV.A, this Settlement Agreement shall not be construed as Defendants conceding that any particular pleading or action by PLP is available.

C. Nothing in this Section IV shall provide any limitations to Defendants in enforcing this Settlement Agreement. The parties agree that a court may take judicial notice of this Settlement Agreement in any future action.

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SECTION 2. BACKGROUND AND PROJECT DESCRIPTION

2.1 Background

2.1.1 Prior to the Bristol Bay Assessment (1984–2011)

In 1984, the State of Alaska adopted the *Bristol Bay Area Plan for State Lands* (BBAP). The 1984 BBAP placed fish and wildlife habitat and harvest as a primary use throughout the Bristol Bay study area (ADNR 1984a). In 1984, the Alaska Department of Natural Resources (ADNR) also closed the channel plus 100 feet on either side of anadromous reaches of 64 streams in the Bristol Bay region to new mineral entry, stating that "new mineral entry creates an incompatible surface use conflict with salmon propagation and production, and jeopardizes the economy of the Bristol Bay region and the management of the commercial, sport, and subsistence fisheries in the Bristol Bay area" (ADNR 1984b). The SFK, NFK, and UTC, the headwaters of which overlie the Pebble deposit, were included in the 1984 closure. The BBAP was revised in 2005; it is not clear in the 2005 BBAP if the closure still applies to the SFK, NFK, and UTC (Box 2-1).

2.1.1.1 Clean Water Act Section 404 Pre-Application and Technical Working Group Meetings

The Pebble deposit was first explored by Cominco America Incorporated between 1985 and 1997. Drilling on the Pebble deposit began in 1988 and continued through 1997, with 117 holes totaling 62,930 feet completed (Ghaffari et al. 2011). During this time, baseline environmental, engineering, and preliminary economic studies were initiated (Ghaffari et al. 2011). The prospect subsequently changed hands and was explored by Northern Dynasty Minerals Ltd. (NDM) between 2001 and 2007 and by the Pebble Limited Partnership (PLP) between 2007 and the present. PLP was created in 2007 by co-owners NDM and Anglo American PLC to design, permit, construct, and operate a long-life mine at the Pebble deposit (Ghaffari et al. 2011) (Anglo American PLC withdrew from the partnership in late 2013). Mineral exploration of the Nushagak and Kvichak River watersheds accelerated after the Pebble deposit was located, and several additional mineral deposits have been discovered in the two watersheds.

Between 2001 and 2011, NDM/PLP staked additional claims, conducted further geochemical and geophysical surveys, completed 698,296 feet of drilling to delineate the Pebble deposit, and completed 169,151 feet of drilling elsewhere on the property. This work resulted in significant expansion of the western delineation of the Pebble deposit, and the discovery of a higher-grade zone to the east. Extensive engineering, baseline environmental studies, and stakeholder engagement work also occurred during this time (Ghaffari et al. 2011).

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BOX 2-1. STATE LAND USE PLANNING IN THE BRISTOL BAY WATERSHED

In September 1984, the State of Alaska adopted the *Bristol Bay Area Plan for State Lands* (BBAP). The 1984 BBAP placed "fish and wildlife habitat and harvest as a primary use throughout the Bristol Bay study area." The plan stated "Through implementation of the plan (including plan guidelines), fish and wildlife resources and the income and employment generated from the harvest of fish and wildlife resources can be expected to continue indefinitely, thereby providing a sound economic base for Alaska and the Bristol Bay area" (ADNR 1984a).

The State of Alaska also determined in 1984 that mining in much of the Nushagak and Kvichak River watersheds would be incompatible with the production of salmon. Alaska Statute 38.05.185 requires that the Commissioner of the Alaska Department of Natural Resources (ADNR) must determine that mining would be incompatible with significant surface uses to close state-owned areas to mineral entry (ADNR 1984a). The 1984 BBAP made that determination for 64 streams in the Bristol Bay area. On September 13, 1984, ADNR Commissioner Esther Wunnicke signed Mineral Closing Order (MCO) 393, which closed the channel plus 100 feet on either side of anadromous reaches of 64 streams to new mineral entry, stating that "new mineral entry creates an incompatible surface use conflict with salmon propagation and production, and jeopardizes the economy of the Bristol Bay region and the management of the commercial, sport, and subsistence fisheries in the Bristol Bay area" (ADNR 1984b). MCO 393 states several times that mineral development is incompatible with fisheries and considers existing state and federal water quality regulations and standards inadequate to guarantee the continued propagation and production of salmon and other fish resources in stream waters in the Bristol Bay area (ADNR 1984b).

In 2005, the State of Alaska revised the BBAP. The 2005 BBAP was most notably different from the 1984 plan in that it no longer explicitly placed fish and wildlife habitat and harvest as a primary use throughout the Bristol Bay study area (ADNR 2005). Although MCO 393 was retained in the 2005 BBAP, the finding that mineral development is incompatible with salmon propagation and production was not retained. The Pebble deposit extends beneath waters that are closed by MCO 393, but the 2005 BBAP states that mineral development in the area of the Pebble deposit is expected to be authorized (ADNR 2005). It also states that "mineral development must be performed in such a manner as to ensure that impacts on the anadromous and high value resident fish streams are avoided or reduced to levels deemed appropriate in the state/federal permitting processes related to mineral deposit development" (ADNR 2005).

The 1984 BBAP identifies primary designated uses for the lands surrounding the Pebble deposit as Fish & Wildlife, Recreation, and Minerals, except for lands within a 200-foot corridor along anadromous fish streams that explicitly include the South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek. The 2005 BBAP identifies the primary land use designation for that same area as Minerals, with a note that MCO 393 applies where appropriate; however, the anadromous waters in this area are not explicitly identified.

On May 5, 2009, six Bristol Bay tribes filed suit against ADNR in Alaska Superior Court (Third Judicial District) over ADNR's 2005 changes to the BBAP (Nondalton Tribal Council et al. v. ADNR). The suit challenged the validity of the 2005 BBAP. Among other issues, the plaintiffs challenged that a 90% reduction in Habitat as a primary designated land use was unlawful. In 2013, ADNR released revisions to the 2005 BBAP in response to an agreement with the plaintiffs, which dismissed the litigation in exchange for ADNR's agreement to address the issues raised in the lawsuit through the existing administrative process for amending area land use plans and reclassifying state land (ADNR 2014a).

The 2013 BBAP revisions increase the amount of lands across the Bristol Bay planning area classified as Wildlife Habitat and Public Recreation and, to a lesser extent, lands co-designated as Habitat and Minerals. Increases in these land use classifications were primarily at the expense of lands designated as General Use in the 2005 BBAP. Smaller decreases also occurred in lands designated as Settlement and Minerals (or Minerals and Habitat) in the 2005 BBAP (ADNR 2013[8]). The designation of a particular area as Wildlife Habitat does not mean that the land is unavailable for other uses such as resource extraction, although the classification could trigger more stringent environmental requirements.

[8]ADNR has indicated that it is working to resolve management area acreage errors in the published 2013 revised BBAP and those revisions may change these statements (Phelps pers. comm.).

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Beginning in 2004, NDM/PLP engaged with USACE in pre-application meetings. Through these meetings, NDM/PLP has been informed that development of a mine at the Pebble deposit would require a permit under Section 404 of the CWA (Lestochi pers. comm.). Further, NDM/PLP was informed that the process would include a public interest review, development of an environmental document in accordance with the National Environmental Policy Act (NEPA), and a review for compliance with the CWA Section 404(b)(1) Guidelines (Lestochi pers. comm.).[9]

Starting in 2004, EPA Region 10 met numerous times with NDM/PLP to discuss mine development at the Pebble deposit, the ore body resources they were pursuing, potential environmental impacts associated with mine development, early environmental baseline study plans, and preparation for review of the mine project pursuant to NEPA and CWA Section 404. During this time, EPA Region 10 staff reviewed the draft Environmental Baseline Studies, the 2004 Study Plan, and the Analytical Quality Assurance Plan.

In 2004, NDM established and began coordinating a Baseline Environmental Team of federal and state agency technical staff, including EPA Region 10, to continue the work of reviewing the draft Environmental Baseline Study Plan, Field Sampling Plan, Progress Reports, and the Analytical Quality Assurance Plan. NDM also provided periodic updates on the mine development process, as well as findings about the region and potentially affected natural and cultural resources from the baseline studies.

In 2005, EPA Region 10 formed an internal interdisciplinary team to engage in the consultation and review process, and participated in several Pebble deposit site visits with NDM. EPA Region 10 also participated in NDM's community leaders meeting.

In 2006, NDM submitted water rights applications to ADNR (NDM 2006). NDM applied for water rights permits to Upper Talarik Creek and the Koktuli River for use in mining operations. In total, NDM applied for rights to approximately 35 billion gallons of groundwater and surface water per year (ADNR 2014c).

Between 2007 and 2010, multiple technical working groups operated under the umbrella Pebble Project Technical Working Group to facilitate coordinated agency review of important environmental studies for NEPA and subsequent permitting (ADNR 2014b). Nine agencies—including Alaska Department of Fish and Game (ADF&G), ADNR, National Marine Fisheries Service (NMFS), National Park Service (NPS), USACE, U.S. Fish and Wildlife Service (USFWS), and EPA Region 10—participated in 10 technical working groups. These groups met regularly and EPA Region 10 staffed them from its interdisciplinary team. EPA Region 10 participated in the Geochemistry, Surface and Groundwater Quality, Surface and Groundwater Hydrology, Wildlife, Baseline Multi-Media Trace Elements, Freshwater Fish Studies, Freshwater Aquatic Organisms, Marine Organisms, Marine Wildlife, and Instream Flow Habitat Modeling Subgroup Technical Working Groups. Concurrently, EPA Region 10, along with several state agencies, reviewed NDM/PLP's geotechnical drilling water management plan.

[9] There have been 10 pre-application meetings between PLP and USACE, not including meetings for Nationwide Permit 6 permit actions, since January 12, 2009 (Kochenbach pers. comm.).

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During this same period, NDM/PLP held open meetings with tribal leaders in the Bristol Bay area. EPA Region 10 attended those meetings and also met separately with Bristol Bay tribes at their request.

In 2007, PLP hired the Keystone Center (Keystone) to facilitate a dialogue on mining the Pebble deposit. The stated purpose of the dialogue was to help stakeholders make better-informed decisions about the project (Keystone 2014a). As one of the principal products of that dialogue, Keystone held a series of science panels to evaluate PLP's draft environmental and socioeconomic baseline studies with the aim of helping stakeholders determine if the studies were credible and sufficient for their intended purpose.[10]

In February 2011, NDM submitted its preliminary plans for mining the Pebble deposit to the U.S. Securities and Exchange Commission (SEC) (SEC 2011). This submission included NDM's report titled *Preliminary Assessment of the Pebble Project, Southwest Alaska* (Ghaffari et al. 2011). Ghaffari et al. (2011) describe three stages of mine development at the Pebble deposit: an initial 2-billion-ton mine consisting of 25 years of open pit mining, a 3.8-billion-ton mine consisting of 45 years of open pit mining, and a 6.5-billion-ton mine consisting of 78 years of open pit mining. Ghaffari et al. (2011) also indicate that the total Pebble mineral resource may approach 12 billion tons of ore.

In December 2011, PLP provided EPA Region 10 with an advance, embargoed copy of its more than 25,000-page environmental baseline document (PLP 2011). The environmental baseline document was designed to characterize the existing physical, chemical, biological and social environments in the SFK, NFK, and UTC watersheds where the Pebble deposit is located as well as along the proposed mine's transportation corridor that would link the mine site to a proposed port site on Cook Inlet. The environmental baseline document primarily presents results of the baseline studies conducted by NDM/PLP from 2004 through 2008.

2.1.1.2 Petitions to U.S. Environmental Protection Agency

On May 2, 2010, EPA Administrator Lisa P. Jackson and Regional Administrator Dennis McLerran (EPA Region 10) received a letter from six federally recognized Bristol Bay tribal governments who requested that EPA initiate a process under Section 404(c) of the CWA to protect waters, wetlands, fish, wildlife, fisheries, subsistence, and public uses in the Nushagak and Kvichak River watersheds and Bristol Bay from metallic sulfide mining, including a potential Pebble mine. Signatories included Nondalton Tribal Council, New Stuyahok Traditional Council, Levelock Village Council, Ekwok Village Council, Curyung Tribal Council, and Koliganek Village Council. Their co-counsels also provided a separate letter dated May 7, 2010, regarding secondary effects on subsistence and recreational use from a potential Pebble mine in the context of Section 404(c) regulations. Subsequently, three additional federally recognized Bristol Bay tribal governments signed on to this letter: Native Village of Ekuk, Village of Clark's Point, and Twin Hills Village Council.

[10] These sessions occurred over a 2-year period that began with a panel in December 2010 titled "Responsible Large-scale Mining: Global Perspectives" and concluded with a panel in May 2013 titled "Wetlands, Vegetation, Wildlife, and Threatened & Endangered Species." The final listed panel, titled "Evaluating Choices – A Panel Discussion Designed to Help Stakeholders Examine a Mine Plan and Its Potential Influence on the Region's Ecological, Social, and Economic Base," has not yet been scheduled (Keystone 2014b). To date, Keystone has not published any of its findings.

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Following the letter from the tribes, EPA and President Obama received numerous letters from stakeholders expressing their interest and concerns regarding potential EPA action to protect Bristol Bay fishery resources. Some requests to take action favored immediate action to comprehensively protect Bristol Bay via any and all tools available, including a public process under Section 404(c). Others favored a targeted Section 404(c) action that would restrict only mining associated with the Pebble deposit. These stakeholders included additional Bristol Bay tribes, the Bristol Bay Native Association, the Bristol Bay Native Corporation, other tribal organizations, stakeholder groups dependent on the fishery (commercial and recreational fishers, seafood processors and marketers, chefs and restaurant and supermarket owners, sport fishing and hunting lodge owners and guides), sporting goods manufacturers and vendors, a coalition of jewelry companies including Tiffany & Co, conservation organizations, members of the faith community, and elected officials from Alaska and other states.

Also in 2010, EPA received requests to refrain from taking action under Section 404(c). These requests included those that asked for more time to understand potential implications of mine development in the Bristol Bay watershed, and others that requested EPA wait until formal mine permit applications had been submitted and an environmental impact statement had been developed. These requestors included four federally recognized Bristol Bay tribal governments (Newhalen Tribal Council, South Naknek Tribal Council, King Salmon Traditional Village Council, and Iliamna Village Council), other tribal organizations, Governor Parnell of Alaska, and attorneys representing PLP.

In 2010, EPA met, at their request, with stakeholders who support and stakeholders who oppose a mine at the Pebble deposit to hear their concerns and receive any information they wished to provide. These meetings occurred in the villages in the Bristol Bay watershed, Anchorage, Seattle, and Washington, D.C.

EPA Administrator Jackson and Regional Administrator McLerran visited Alaska in August 2010 to learn about the challenges facing rural Alaska towns and Alaska Native villages. Their itinerary included a meeting with PLP for a briefing on the proposed mining of the Pebble deposit. They also visited Dillingham, where they participated in two listening sessions, one specifically for tribal leaders from Bristol Bay and one meeting open for all local and regional entities.

2.1.2 Development of the Bristol Bay Assessment (2011–2014)

On February 7, 2011, Regional Administrator McLerran announced EPA's intent to conduct a scientific assessment to evaluate how future large-scale mining projects might affect water quality and Bristol Bay's salmon fishery (see Table 2-1 for a timeline of BBA development).[11] EPA initiated the BBA in response to the competing requests described in the previous section.

[11] EPA conducted the BBA consistent with its authority under CWA Section 104(a) and (b).

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Table 2-1. Bristol Bay Assessment timeline.	
2/7/2011	Announced intent to conduct the BBA.
8/2011	Met with Intergovernmental Technical Team to gather information to inform the scope of the BBA.
2/24/2012	Invited the public to nominate qualified experts to be considered for the external peer review panel.
3/2012	Distributed internal review draft of the BBA for agency technical review.
5/18/2012	Released first external review draft of the BBA for public comment and external peer review.
5/31/2012 and 6/4–7/2012	Held public meetings in Seattle, Anchorage, and multiple villages in the Bristol Bay watershed to communicate the results of the draft BBA and receive public comments.
6/5/2012	Announced the names of the 12 independent peer reviewers to review the draft BBA and released the draft charge questions, providing the public the opportunity to comment on the draft charge questions.
8/7–9/2012	Held public peer review meeting in Anchorage.
11/2012	Released the final peer review report containing the external peer review of the May 2012 draft of the BBA.
4/30/2013	Released second external review draft of the BBA for public comment and follow-on review by external peer reviewers to evaluate how well the second external review draft responded to peer reviewers' comments on the first external review draft.
1/15/2014	Released the final BBA and EPA response to peer review comments document.
3/21/2014	Released EPA response to public comments documents.

EPA Region 10 notified 31 Bristol Bay tribes, the Alaska Department of Environmental Conservation (ADEC), ADF&G, ADNR, the Bureau of Land Management, NMFS, NPS, USACE, USFWS, and the U.S. Geological Survey (USGS) of its intent by letter. The same week it was announced, EPA Region 10 met with Nuna Resources (which represents several Alaska Native Claims Settlement Act [ANCSA] Village Corporations) and had meetings with other stakeholders. Many of these tribes and agencies participated in the Intergovernmental Technical Team (IGTT) (Section 2.1.2.2). NFMS, USFWS, and USGS worked closely with EPA on development of the BBA, including authoring appendices to the BBA.

2.1.2.1 Summary of the Bristol Bay Assessment Process

EPA's purpose in conducting the BBA was to characterize the biological and mineral resources of the Bristol Bay watershed; increase understanding of the potential impacts of large-scale mining, in terms of both day-to-day operations and potential accidents and failures, on the region's fish resources; and inform future decisions, by government agencies and others, related to protecting and maintaining the chemical, physical, and biological integrity of the watershed. The BBA represents a review and synthesis of available information to identify and evaluate potential risks of future large-scale mining development on the Bristol Bay watershed's fish habitats and populations and consequent indirect effects on the region's wildlife and Alaska Native cultures.

Ecological Risk Assessment Framework and Process

EPA developed the BBA following EPA's guidelines for ecological risk assessment (EPA 1998). EPA began by reviewing existing literature to synthesize background information on the Bristol Bay region, particularly the Nushagak and Kvichak River watersheds. This information focused on several topics, including the ecology of Pacific salmon and other fishes; the ecology of relevant wildlife species; mining

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and mitigation, particularly in terms of porphyry copper mining; potential risks to aquatic systems due to road and pipeline crossings; fishery economics; and Alaska Native culture. These detailed background characterizations are included as appendices to the BBA (EPA 2014a).

In accordance with the different phases of an ecological risk assessment, the BBA document itself is organized into two main sections: problem formulation and risk analysis and characterization. Problem formulation is the first phase of an ecological risk assessment, during which the purpose and scope of the assessment are defined. Risk assessors, decision makers, and stakeholders determine the topical, spatial, and temporal scope needed to effectively address whatever decision process the assessment is meant to inform. Assessment endpoints, or explicit expressions of the environmental entities of interest, are identified (EPA 1998). Conceptual models illustrating potential linkages among sources, stressors, and endpoints considered in the assessment, as well as a plan for analyzing and characterizing risks, are developed.

The risk analysis and characterization phases follow problem formulation (EPA 1998). During the risk analysis phase, available data are used to assess potential exposures to stressors and exposure-response relationships for those exposures and endpoint effects. In the risk characterization phase, information on exposures and effects is integrated, and the uncertainties and limitations associated with the assessment's analyses are identified.

Data Used

An ecological risk assessment requires data of sufficient quantity and quality, from a variety of sources. Throughout the problem formulation, risk analysis, and risk characterization phases, relevant data are identified and acquired. These data may result from different kinds of studies, including field studies at the site of interest, field studies at other sites somehow relevant to the site or issue of interest, laboratory tests, and modeling applications.

EPA prioritized peer-reviewed, publicly accessible sources of information for use in the BBA, to ensure that incorporated information and data were of sufficient quality. In many cases, however, peer-reviewed data—particularly those directly relevant to potential mining in the Bristol Bay region—were not available. Thus, information and data from other credible, non-peer-reviewed sources were also used in the BBA. These sources included NDM/PLP reports (e.g., Ghaffari et al. 2011, PLP 2011); reports from the State of Alaska, the U.S. government, and other governments; State of Alaska datasets (e.g., ADF&G 2012, Johnson and Blanche 2012); U.S. government datasets (e.g., USFWS 2012, USGS 2012); other datasets (e.g., ICOLD 2001, RAP 2011); mine industry publications (e.g., mine company reports, conference proceedings); reports from non-governmental organizations (e.g., Zamzow 2011, Levit and Chambers 2012); and personal communications with qualified experts. In all cases, sources of information and data included in the BBA are appropriately cited and listed in BBA Chapter 15 (EPA 2014a).

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2.1.2.2 Public and Stakeholder Involvement

Meaningful engagement with stakeholders was essential to ensure that EPA heard and understood the full range of perspectives on both the BBA and potential effects of mining in the region. To ensure transparency, EPA involved and informed stakeholders throughout the BBA process. Community involvement efforts included a project webpage and listserv to share BBA-related information with the public. Additional ways in which stakeholders and tribal governments were involved in the BBA process are summarized below.

- Public and stakeholder meetings. Throughout development of the BBA, EPA visited many Bristol Bay communities, including Ekwok, Dillingham, Kokhanok, New Stuyahok, Koliganek, Iliamna, Newhalen, Nondalton, Naknek, King Salmon, Igiugig, and Levelock. EPA also met with representatives from Bristol Bay tribal governments and corporations, as well as organizations representing the mining industry, commercial fishers, seafood processors, hunters and anglers, chefs and restaurant owners, jewelry companies, conservation interests, members of the faith community, and elected officials from Alaska and other states. EPA heard from hundreds of people at these meetings and from thousands more via phone and email. EPA was also invited to numerous conferences and meetings to discuss the BBA. The following stakeholder and public meetings are of particular note.
    - June 2011. EPA Senior Policy Counsel Robert Sussman, EPA Acting Assistant Administrator for Water Nancy Stoner, and Regional Administrator McLerran met with PLP, toured the Pebble deposit site, and visited five Alaska Native villages. They held public meetings in the villages of Newhalen, Ekwok, New Stuyahok, and Dillingham. In Koliganek, they met with members of the Village Council.
    - June 2012. EPA held eight public meetings seeking public comment on the May 2012 draft of the BBA (see "public comments" bullet below).
    - August 2013. EPA Administrator Gina McCarthy and Regional Administrator McLerran met with PLP, toured the Pebble deposit site, and held public meetings in the villages of Iliamna and Dillingham.
- IGTT. In August 2011, EPA met with the IGTT, which was established to provide EPA with input on the structure of the BBA and to identify potential data sources. IGTT participants included tribal representatives from Ekwok, Newhalen, Iliamna, South Naknek, New Koliganek, Curyung, Nondalton, and Levelock and agency representatives from the Alaska Department of Public Health, ADF&G, ADNR, NPS, USFWS, NMFS, and the Bureau of Land Management. Feedback from this workshop was used to inform the early stages of problem formulation. EPA also updated the IGTT on BBA progress in January 2012 via webinar.
- Tribal consultation. EPA's policy is to consult on a government-to-government basis with federally recognized tribal governments whenever EPA actions and decisions may affect tribal interests. Consultation is a process of meaningful communication and coordination between EPA and tribal

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officials. In February 2011, EPA invited all 31 federally recognized tribal governments of the Bristol Bay region to enter formal consultation on the BBA, to ensure their involvement and to include their concerns and relevant information in the BBA. Throughout development of the BBA there have been numerous opportunities for tribes to participate in the tribal consultation process. Not all tribes elected to participate in consultation. EPA met with representatives from 20 of the 31 tribes (including all 13 tribes with federally recognized tribal governments in the Nushagak and Kvichak River watersheds), either in person or on the phone, during the consultation process.

- ANCSA engagement. EPA provided multiple engagement opportunities for ANCSA Village and Regional Corporations throughout development of the BBA, consistent with Public Law 108-199, Division H, Section 161, and Public Law 108-447, Division H, Title V, Section 518. EPA representatives traveled to King Salmon, Iliamna/Newhalen, and Anchorage for meetings at the request of multiple ANCSA Corporations, to share information about and receive input on the BBA. Additionally, ANCSA Corporation representatives were invited to participate in a webinar following release of the April 2013 draft of the BBA. Throughout BBA development, ANCSA Corporations have traveled numerous times to meet with EPA officials in Anchorage, Seattle, and Washington, D.C. Seventeen of the 26 ANCSA Corporations within the Bristol Bay region were engaged through these mechanisms.
- Public comments. EPA released two drafts of the BBA for public comment. Approximately 233,000 and 890,000 comments were submitted to the EPA docket during the 60-day public comment periods for the May 2012 and April 2013 drafts, respectively. EPA also held eight public comment meetings in June 2012, in Dillingham, Naknek, New Stuyahok, Nondalton, Levelock, Igiugig, Anchorage, and Seattle. Approximately 2,000 people attended these meetings. An overview of these meetings was shared via two webinars in July 2012. In March 2014, EPA released the Response to Public Comments documents for both the May 2012 and April 2013 drafts of the BBA.
- Public involvement in peer review. EPA provided multiple opportunities for stakeholder involvement in the peer review process. In February 2012, the public was invited to nominate qualified scientists as potential peer reviewers; these nominations were submitted to the peer review contractor for consideration. In March 2012, EPA requested public comments on the charge questions to be given to peer reviewers, and these questions were revised in response to comments received. In August 2012, the public was invited to participate in the first 2 days of the peer review meeting in Anchorage, to provide oral comments to and observe discussions among the peer reviewers.

2.1.2.3 Peer Review Process

The peer review process is designed to provide a documented, independent, and critical review of a draft product. Its purpose is to identify any problems, errors, or necessary improvements to a draft product prior to it being released as a final product. To this end, EPA tasked Versar, an independent contractor, with coordinating an external peer review of the May 2012 draft of the BBA. Versar assembled 12 independent experts to serve as peer reviewers. These reviewers were selected from a

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pool of qualified candidates, with particular attention to the public nominees. In assembling the peer reviewers, Versar evaluated the qualifications of each peer review candidate and conducted thorough conflict of interest screenings.

The peer reviewers were asked to evaluate the May 2012 draft of the BBA (the main report and its appendices) and provide a written review responding to 14 questions developed by EPA with input from public commenters. Peer reviewers were charged only with evaluating the quality of the science included in the draft BBA and were not charged with making any regulatory recommendations, commenting on any policy implications of EPA's role in mine development in the region, or reaching consensus in either their deliberations (during the peer review meeting, see below) or their written comments. Peer reviewers were provided with a summary of public comments submitted during the 60-day public comment period for the May 2012 draft and were given access to the public comments themselves.

A 3-day peer review meeting, coordinated by Versar, was held in Anchorage on August 7 through 9, 2012. On the first day of the meeting, peer reviewers heard testimony from approximately 100 members of the public. Peer reviewers deliberated among themselves on the second and third days of the meeting; these deliberations were open to the public on the second but not the third day. EPA staff were present at all 3 days of the peer review meeting and were available to the peer reviewers to answer clarifying questions on the second and third days.

Following the public peer review meeting, peer reviewers were given additional time to complete their individual written reviews. Versar provided these final written comments to EPA in the *Final Peer Review Meeting Summary Report* for the May 2012 draft, which EPA released to the public in November 2012 (EPA 2012). EPA considered these peer review comments, as well as comments received during the 60-day public comment period, as it revised the May 2012 draft of the BBA.

In April 2013, EPA released a revised draft of the BBA. The same 12 peer reviewers were asked to conduct a follow-on peer review to evaluate whether the April 2013 draft of the BBA was responsive to their original comments. EPA provided reviewers with a draft response to comments document, in which EPA responses to peer review comments on the May 2012 draft of the BBA were added to the *Final Peer Review Meeting Summary Report* (EPA 2012).

In the follow-on review, peer reviewers were asked to go through their comments on the May 2012 draft, review EPA's draft responses to their original comments, and evaluate whether their original review comments had been addressed sufficiently and appropriate changes had been incorporated into the April 2013 draft. EPA received these follow-on peer review comments directly from the 12 peer reviewers in August and September 2013. Again, EPA considered these peer review comments, as well as comments received during the 60-day public comment period, as it revised the April 2013 draft of the BBA.

In January 2014, EPA released both the final BBA and the final response to peer review comments document.

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2.1.3 Initiation of the Clean Water Act Section 404(c) Review Process (2014–Present)

After careful consideration of available information, including the BBA and extensive information provided by NDM/PLP, EPA Region 10 announced on February 28, 2014, its decision to proceed under CWA Section 404(c) regulations, 40 CFR Part 231, to review potential adverse environmental effects of discharges of dredged or fill material associated with mining the Pebble deposit. Pursuant to these regulations, Regional Administrator McLerran sent letters to the Alaska District USACE, the State of Alaska, and PLP, notifying them of the decision to initiate this process and providing them an opportunity to submit information, for the record, to demonstrate either that no unacceptable adverse effects on aquatic resources would result from discharges associated with mining the Pebble deposit or that actions could be taken to prevent such unacceptable adverse effects.

Section 404(c) regulations provide 15 days for responding to this request. In response to requests for additional time, EPA Region 10 sent letters to PLP and to the Alaska Attorney General on March 13, 2014, granting a 45-day extension (until April 29, 2014) to respond to the Section 404(c) initiation letter.

EPA Region 10 held two meetings on March 25, 2014, one with PLP executives and one with the Alaska Attorney General. On April 29, 2014, PLP and the Alaska Attorney General separately provided information as part of the initial Section 404(c) consultation period. These submittals raised a number of legal, policy, scientific, and technical issues, including questions regarding EPA's authority to initiate a Section 404(c) review at this time, the scientific credibility of the BBA, and whether the BBA should be used to inform decision-making under Section 404(c). Most of the scientific and technical issues detailed in these documents had been raised before; EPA has provided responses to these issues in individual correspondence to PLP and the Alaska Attorney General and, most comprehensively, in the 400-page BBA Response to Peer Review Comments document released in January 2014 and the 1,200-page BBA Response to Public Comments documents released in March 2014. Examples of these scientific and technical issues and EPA's responses are provided below.

- In its April 29, 2014, submittal, PLP continued to assert that streams and other aquatic habitats most likely to be affected by the mine's footprint are "either not utilized by fish or support low to very low densities of fish" and that these streams and associated wetlands have low habitat value for fish. However, EPA has highlighted concerns regarding the methods PLP used to analyze its data and reach these conclusions. For example, sampling fish in the area near the Pebble deposit can be very difficult and costly. Information on fish distribution and abundance in the region must rely on intermittent site visits during periods when the area and streams are accessible and suitable for effective sampling. It is reasonable to conclude that the current databases provide an incomplete description of the full distribution and abundance of fish in the region, and likely represent underestimates of actual fish distribution, fish abundance, and habitat importance, for several reasons.

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- Counts of fish reported in PLP's environmental baseline document (PLP 2011) do not always include estimates of observer efficiency, sampling efficiency, or other factors that affect the proportion of fish present that are actually observed. Thus, counts may often underestimate true abundance.
- Some habitats are seasonally important. Fish may be absent from a site during portions of the year, but present in high abundances at other times. Low abundance at one point in time does not necessarily equate to low abundance at another point in time, nor does it mean that the habitat is not ecologically important.
- Sites with low abundances during years with low adult escapement may have high abundances during years with higher survival or escapement, allowing populations to respond to favorable conditions.
- Sites with low apparent abundances of target species (e.g., salmon) may provide habitat for other fish species, macroinvertebrates, or other components essential for ecosystem function.
- Sites with low abundances may provide important services to downstream waters, including regulation of water quality or streamflows or supplies of materials.

- Given these factors, it is not valid to conclude that streams with low abundances observed under a particular sampling regime are somehow unimportant. They can in fact be very important, as is well-known and documented within the ecological and fisheries literature detailed in the BBA (EPA 2014a: Chapter 7, EPA 2014b).

- PLP's April 29, 2014, submittal also dismisses the stream, wetland, and other aquatic resources losses associated with the mine footprint as "inconsequential when put into context of the overall Nushagak/Kvichak drainages and Bristol Bay region." PLP notes that stream and wetland losses associated with the 0.25 stage mine would be 0.05% and 0.004%, respectively, of the streams and wetlands in the Bristol Bay watershed. EPA has pointed out that this perspective is flawed because it assumes that these habitats are less ecologically valuable than streams, wetlands, and other aquatic habitats elsewhere in the watershed and ignores the important role that individual streams or stream reaches, wetlands, lakes, ponds, and other aquatic habitats can play in protecting the genetic diversity of Bristol Bay's salmon populations. In the Bristol Bay region, hydrologically diverse riverine and wetland landscapes provide a variety of salmon spawning and rearing habitats. Environmental conditions can differ among habitats in close proximity, and recent research has highlighted the potential for local adaptations and fine-scale population structuring in the Bristol Bay and neighboring watersheds (Quinn et al. 2001, Olsen et al. 2003, Ramstad et al. 2010, Quinn et al. 2012). Losses that eliminate local, unique populations would erode the genetic diversity that is crucial to the stability of the overall Bristol Bay salmon fisheries (Hilborn et al. 2003, Schindler et al. 2010, EPA 2014a: Appendix A, EPA 2014b). PLP's approach is also problematic because it is inconsistent with USACE guidance in effect since 1989. In this 1989 guidance, USACE Headquarters specifically criticizes New Orleans District USACE's assertion that wetland losses associated with a

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project under review were "inconsequential" because "...project alterations of wetlands represents a very small portion of similar habitat within the project vicinity and coastal Louisiana...only 2.39% of the saline marsh on Grand Isle and only 0.005% of the saline marsh in coastal Louisiana...." The 1989 guidance finds that this approach ignores the fact that the cumulative effects of many projects could add up to very significant wetlands loss and notes that the proposed destruction of 22 acres of special aquatic sites in the case under review by New Orleans District could not simply be "dismissed as unimportant" (USACE 1989). EPA has also concluded, based on NDM's submissions to the SEC as well as more recent statements (Ghaffari et al. 2011, SEC 2011, NDM 2014), that the development of a mine at the Pebble deposit will be much larger than the 0.25 stage mine, likely as much as 25 times larger under the resource case presented in Ghaffari et al. (2011).

- PLP's submittal claims that the BBA underestimated by more than 80% the surplus water volumes available for treatment and release to mitigate potential effects on downstream aquatic habitats. PLP has made similar claims in the past, but has not provided any supporting information to substantiate this claim.

- PLP's submittal is critical of the surplus water release strategy used in the BBA and claims it has a "more strategic and science-based" strategy to manage surplus water flows that will prevent negative effects on fish and possibly provide beneficial effects on four species of salmon and three other fish species. PLP has made similar claims in the past, but has not provided any supporting information to substantiate this claim. Tables 1 and 2 in PLP's submittal purport to evaluate the surplus water release strategy used in the BBA and a second theoretical strategy identified by PLP. However, these tables provide a skewed analysis by showing streamflow changes at the scale of the entire river or Bristol Bay, rather than at the scale of the stream reach as shown in the BBA. Finally, Appendix J of the BBA (EPA 2014a) discusses the challenges associated with actually implementing the kind of sophisticated water quantity management strategy proposed by PLP; these challenges are not addressed by PLP's submittal.

- In its comments on the May 2012 and April 2013 drafts of the BBA, PLP identified an array of compensatory mitigation measures that it felt could offset the kinds of unavoidable impacts on streams, wetlands, and fish expected to occur during mining of the Pebble deposit. Appendix J of the BBA evaluated these potential compensation measures (EPA 2014a). EPA concluded that there are significant challenges regarding the potential efficacy, applicability, and sustainability of compensation measures proposed by PLP for use in the Bristol Bay region, and raised questions as to whether sufficient compensation measures exist to address impacts of the expected nature and magnitude. Compensatory mitigation efforts typically involve restoration and enhancement of waters that have potential for improvement in ecological services. However, the waters of the Bristol Bay watershed are already among the most productive in the world. EPA Region 10 sees little likelihood that human activity could improve upon the high-quality natural environment in the Bristol Bay watershed that nature has created and that has thus far been preserved. PLP's April 29, 2014, submittal included additional information regarding compensatory mitigation. EPA reviewed this material but determined that it did not change the conclusions drawn in Appendix J of the BBA

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(EPA 2014a). Nearly all of the existing peer-reviewed literature reviews evaluating the effectiveness of stream restoration and rehabilitation projects, including reviews referenced in PLP's submittal, conclude that the majority of restoration projects either are never measured for effectiveness or do not meet their restoration objectives. PLP points to the millions of dollars spent on salmon recovery projects in the Pacific Northwest and British Columbia, with the implication that there is a connection between financial investment and salmon productivity. However, despite the millions spent, Pacific salmon remain at a fraction of their historical levels in the lower 48 states. As discussed in detail in Appendix J of the BBA, compensation methods proposed by PLP, including placement of instream structures, stream fertilization, and construction of spawning channels, have typically had only variable, local, or temporary effects; were designed for use in degraded watersheds; or resulted in adverse, unintended consequences (Peterman 1982, Giannico and Hinch 2003, Walters et al. 2008, Whiteway et al. 2010, Jones et al. 2014, EPA 2014a: Appendix J).

On June 23, 2014, EPA Region 10 sent letters to four companies that are controlled by or subsidiaries of NDM and that have mineral claims near the Pebble deposit. These letters provide a copy of the original February 28, 2014, CWA Section 404(c) initiation letter and an opportunity for those entities to send any additional information or response. On July 8, 2014, PLP responded on behalf of the four companies and informed EPA Region 10 that each company adopts the response submitted by PLP on April 29, 2014.

After fully considering the April 29, 2014, submittals from PLP and the Alaska Attorney General, the Regional Administrator was not satisfied that no unacceptable adverse effect could occur, or that adequate corrective action could be taken to prevent an unacceptable adverse effect. Thus, EPA Region 10 has decided to take the next step in the Section 404(c) process, publication of this proposed determination.

2.2 Project Description

2.2.1 Overview of the Pebble Deposit

The Pebble deposit, located in the headwaters of tributaries of the Nushagak and Kvichak River watersheds (Figure ES-2), is the largest known porphyry copper deposit in southwest Alaska and represents the most likely site for near-term, large-scale mine development in the Bristol Bay watershed (EPA 2014a: Chapter 6). It is a large, low-grade deposit containing copper-, gold-, and molybdenum-bearing minerals. Extraction would involve the creation of a large open pit and the production of large amounts of waste rock and mine tailings (EPA 2014a: Chapter 6).

PLP holds the largest mine claim block in the Nushagak and Kvichak River watersheds. Although PLP has not yet submitted a Section 404 individual permit application for development of a mine, preliminary mine plans have been developed and submitted to the federal government (i.e., SEC 2011). Publicly available information strongly suggests that a mine at the Pebble deposit has the potential to become one of the largest mining developments in the world (EPA 2014a: Chapter 6).

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The Pebble deposit covers an area of at least 1.9 by 2.8 miles and consists of two contiguous segments, Pebble West and Pebble East. The approximate center of the prospect is about 9.2 miles north-northeast of Sharp Mountain and 18.7 miles northwest of Iliamna. It covers portions of sections 14 to 16, 20 to 23, and 26 to 29, T. 3 S., R. 35 W., Seward Meridian.[12] The full extent of the Pebble deposit is not yet defined (NDM 2014), but Ghaffari et al. (2011) indicate that the Pebble mineral resource may approach 12 billion tons of ore.

For the purposes of this proposed determination, EPA Region 10 is describing the surficial boundary of the Pebble deposit as a rectangular area encompassing the currently known Pebble deposit and measuring 2.5 miles north-south by 3.5 miles east-west. As illustrated in Figure ES-3, this area covers:

> *The southeast quarter of Section 17, Township 3 South, Range 35 West, Seward Meridian (S003S035W17); the south half of S003S035W14, S003S035W15, and S003S035W16; the east half of S003S035W20; the entirety of S003S035W21, S003S035W22, S003S035W23, S003S035W26, S003S035W27, and S003S035W28; and the east half of S003S035W29, with corners at approximately latitude 59.917 degrees north (59.917 N) and longitude 155.233 degrees west (155.233 W), latitude 59.917 N and longitude 155.333 W, latitude 59.881 N and longitude 155.333 W, and latitude 59.881 N and longitude 155.233 W.*

2.2.2 Overview of the Bristol Bay Assessment Mine Scenarios

The BBA evaluated three mine scenarios for the Pebble deposit that draw on preliminary plans submitted by NDM to the SEC (Ghaffari et al. 2011, SEC 2011), consultation with experts, and baseline data collected by NDM/PLP. The two larger scenarios reflect NDM's preliminary plans for mining the deposit. All three scenarios include the use of modern conventional mining technologies and practices, the scale of mining activity required for economic development of the resource, and the infrastructure needed to support large-scale porphyry copper mining.

The three mine scenarios evaluated in the BBA represent different stages of mining at the Pebble deposit, based on the amount of ore processed (Table 2-2).

- Pebble 0.25 stage mine (approximately 0.25 billion tons of ore over 20 years)
- Pebble 2.0 stage mine (approximately 2.0 billion tons of ore over 25 years)
- Pebble 6.5 stage mine (approximately 6.5 billion tons of ore over 78 years)

The Pebble 0.25 stage mine is based on the worldwide median size porphyry copper deposit (Singer et al. 2008).[13] The Pebble 2.0 stage mine[14] and Pebble 6.5 stage mine[15] are based on the smallest and

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[12] Mine claims may be located by what is known as aliquot part legal description, which is meridian, township, range, section, quarter section, and if applicable quarter-quarter section. These claims are known as MTRSC locations, and they are generally located using GPS latitude and longitude coordinates. A quarter section location is typically about 160 acres in size, and a quarter-quarter section location is typically 40 acres in size (ADNR 2014d).

[13] The 0.25 stage mine was added to the BBA to address a comment by peer reviewers who noted that both the 2.0 and 6.5 stage mines were larger than the 90th percentile of all porphyry copper deposits in the world and recommended that a smaller mine scenario on the order of the 50th percentile of worldwide porphyry copper deposits should be evaluated.

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largest mine sizes, respectively, that NDM described in its submittal to the SEC (Ghaffari et al. 2011, SEC 2011). Ghaffari et al. (2011) indicate that the total mineral resources at the Pebble deposit are now believed to be approximately 12 billion tons of ore; thus, it is expected that development of a mine at the Pebble deposit would ultimately be much larger than the 0.25 stage. In its February 23, 2011, press statement announcing the release of Ghaffari et al. (2011), NDM stated "As presented in the Preliminary Assessment, project economics are robust and support a mine development that is both technically feasible and permittable under existing regulatory standards in Alaska." Listed in the press release as a "Preliminary Assessment Key Finding" is the following statement: "The Pebble deposit supports open pit mining utilizing conventional drill, blast and truck-haul methods, with an initial mine life of 25 years and potential for mine extensions to 78 years and beyond" (NDM 2011).

Table 2-2. Mine stage parameters.

Parameter	Mine Stage		
	Pebble 0.25	Pebble 2.0	Pebble 6.5
Amount of ore mined (billion metric tons)	0.23	1.8	5.9
Approximate duration of mining (years)	20	25	78
Ore processing rate (metric tons/day)	31,100	198,000	208,000
Mine Pit			
Surface area (km^2)	1.5	5.5	17.8
Depth (km)	0.30	0.76	1.24
Waste Rock Pile			
Surface area (km^2)	2.3	13.0	22.6
PAG waste rock (million metric tons)	86	580	4,700
NAG waste rock (million metric tons)	320	2,200	11,000
TSF 1[a]			
Capacity, dry weight (billion metric tons)	0.25	1.97	1.97
Surface area, exterior (km^2)	6.8	16.1	16.1
Maximum dam height (m)	92	209	209
TSF 2[a]			
Capacity, dry weight (billion metric tons)	NA	NA	3.69
Surface area, exterior (km^2)	NA	NA	22.7
TSF 3[a]			
Capacity, dry weight (billion metric tons)	NA	NA	0.96
Surface area, exterior (km^2)	NA	NA	9.82
TOTAL TSF surface area, exterior (km^2)	**6.8**	**16.1**	**48.6**

Notes:
[a] Final value, when TSF is full.
PAG = potentially acid-generating; NAG = non-acid-generating; TSF = tailings storage facility; NA = not applicable.

The major components of each mine would be an open mine pit, waste rock piles, and one or more tailings storage facilities (TSFs). Mine construction and operation would also require the construction of

[14] Ghaffari et al. (2011) call the 2.0 stage mine the "Investment Decision Case," which describes an initial 25-year open pit mine life upon which a decision to initiate permitting, construction, and operations may be based.
[15] Ghaffari et al. (2011) call the 6.5 stage mine the "Resource Case," which is based on 78 years of open pit production and seeks to assess the long-term value of the project in current dollars.

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support facilities, including a major transportation corridor, pipelines, a power-generating station, wastewater treatment plants, housing and support services for workers, administrative offices, and other infrastructure. Such facilities would greatly expand the "footprint" of the mine and affect additional aquatic resources beyond the scope of this proposed determination. Although NDM's preliminary plans (Ghaffari et al. 2011, SEC 2011) could change, any mining of the Pebble deposit would, by necessity, require similar mine components, support facilities, and operational features. By only considering the footprint impacts associated with the mine pit, TSFs, and waste rock piles, EPA Region 10 recognizes that it has underestimated potential adverse effects on resources within the SFK, NFK, and UTC watersheds from the construction of all of the additional support facilities necessary to construct and operate a mine at the Pebble deposit.[16] Given the extent of streams, wetlands, lakes, and ponds both overlying the Pebble deposit and within adjacent watersheds, excavation of a massive mine pit and construction of large TSFs and waste rock piles would result in discharges of dredged or fill material into these waters. As USACE has already determined, it is clear that mining the Pebble deposit will entail discharge of dredged or fill material into waters of the United States regulated under the CWA (Lestochi pers. comm.).

Although the BBA and this proposed determination evaluate potential effects associated with all three mine stages, EPA Region 10 has determined that the direct and secondary effects associated with the discharge of dredged or fill material for construction and routine operation of the 0.25 stage mine could result in unacceptable adverse effects on fishery areas. Thus, the primary focus and basis for this proposed determination are the environmental effects associated with the 0.25 stage mine and their potential to cause unacceptable adverse effects on fishery areas. However, EPA Region 10 has also determined that it is highly likely, based on representations from NDM (Ghaffari et al. 2011, SEC 2011, NDM 2014), that ultimate development of the Pebble deposit will be much larger than the 0.25 stage mine and will therefore likely result in much greater impacts than those identified for the 0.25 stage mine.

2.2.3 Potential Disposal Site

Section 404(c) authorizes EPA to prohibit, deny, or restrict the use of "any defined area" for specification as a disposal site for the discharge of dredged or fill material after determining that the discharge of dredged or fill material "into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife or recreation areas."

EPA Region 10 is exercising its discretion to define the potential disposal site as narrowly as possible to encompass the area where discharges associated with mining the Pebble deposit will likely occur, while simultaneously protecting fishery areas from unacceptable adverse effects related to such mining.

[16] An underground extension of the mine, which could increase the size of the mine to more than 6.5 billion tons of ore, was not included in the BBA.

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EPA Region 10 first considered the location of the Pebble deposit at the headwaters of the SFK, the NFK, and UTC. Given this location, EPA Region 10 determined that the mine itself, the discharge of dredged or fill material associated with mining the Pebble deposit, and the unacceptable adverse effects on fishery areas that could result from discharge of this material are most likely to occur within these three watersheds. Therefore, EPA Region 10 concluded that it is reasonable to use the boundaries of the three watersheds to initially define the potential disposal site for dredged or fill material associated with mining the Pebble deposit.

EPA Region 10 then narrowed its focus to mine claims in the three watersheds that are in and around the Pebble deposit, because these are the areas where discharge of dredged or fill material is most likely. Alaska state law specifically recognizes the opportunity for mineral claim owners to use the state's surface land above their mineral claims for mining activity.[17]

In this instance, NDM subsidiaries own mine claims for the Pebble deposit and nearby areas within the SFK, NFK, and UTC watersheds.[18] Given the parent-subsidiary relationship of these companies, it is reasonable to conclude that NDM would consider the mine claims of its subsidiaries within the three watersheds when deciding where to conduct mining activities, including the placement of dredged or fill material associated with construction and operation of a mine at the Pebble deposit. Therefore, a potential disposal site that includes all mine claims owned by NDM subsidiaries in the three watersheds best represents locations where the discharge of dredged or fill material associated with mining the Pebble deposit, and any resulting unacceptable adverse effects on fishery areas, are most likely to occur.

EPA Region 10 has determined that the scope of the potential disposal site subject to EPA Region 10's proposed restrictions, although narrowly tailored to include only those areas where discharge of dredged or fill material associated with mining the Pebble deposit is most likely, will protect important fishery areas from unacceptable adverse effects.

The size of the potential disposal site is approximately 268 square miles (693 km^2). The description of the potential disposal site (Figure ES-3) is as follows.

> *Beginning in the northeast, at latitude 59.994 degrees north (59.994 N) and longitude 155.262 degrees west (155.262 W), it travels generally westward, along the boundary between the Koktuli River and Chulitna River watersheds to approximately latitude 59.979 N and longitude 155.583 W; then generally southward along the boundary between the North Fork Koktuli*

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[17] 11 Alaska Administrative Code 86.600: Millsite permit (a) The director may grant the owner of a mining interest on federal, state, or private land a millsite permit for use of the state's surface estate for a millsite, tailings disposal, or another use necessary for the mineral development. The surface estate subject to the millsite permit must be on or near the owner's mining interest. The director will set the term of the millsite permit for a duration that is appropriate to the permittee's use of the site, and will condition the millsite permit upon payment of fair market rental value for the term of the permit. (b) This section does not require an owner of a mineral location under AS 38.05.185 - 38.05.275 to obtain a millsite permit for use of the state's surface estate within the boundaries of the location.

[18] According to filings with the SEC, Pebble West Claims Corporation and Pebble East Claims Corporation own mine claims for the Pebble deposit itself. Both of these companies are owned by PLP, which itself is a subsidiary of NDM. In addition, PLP and NDM own Kaskanak Copper LLC and U5 Resources Inc., respectively. Both Kaskanak Copper LLC and U5 Resources Inc. own mine claims within the SFK, NFK, and UTC watersheds.

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River and mainstem Koktuli River watersheds, until reaching the north boundary of Section 5, Township 4 South, Range 37 West, Seward Meridian (S004S037W05), at approximately latitude 59.866 N and longitude 155.681 W; then east along the north section line approximately 0.64 mile to the west boundary of S004S037W04, at approximately latitude 59.866 N and longitude 155.663 W; then south along the west section line 0.5 mile to the east-west half-section line, at approximately latitude 59.859 N and longitude 155.663 W; then east along the half-section line 0.5 mile to the north-south half-section line, at approximately latitude 59.859 N and longitude 155.648 W; then south along the north-south half-section line approximately 5.4 miles to the boundary between the Koktuli River and Kaskanak Creek watersheds, at approximately latitude 59.781 N and longitude 155.648 W; then generally eastward, along the watershed boundary to approximately latitude 59.767 N and longitude 155.541 W; then generally eastward, along the boundary between the Koktuli River and Lower Talarik Creek watersheds to approximately latitude 59.762 N and longitude 155.363 W; then generally southeastward, along the boundary between the Upper Talarik Creek and Lower Talarik Creek watersheds, to the south boundary of S005S036W24, at approximately latitude 59.722 N and longitude 155.329 W; then east along the south section line approximately 0.52 mile to the east section line, at approximately latitude 59.722 N and longitude 155.314 W; then north along the section line 1.0 mile to the south boundary of S005S035W18, at approximately latitude 59.736 N and longitude 155.314 W; then east along the south section line 2.0 miles to the east boundary of S005S035W17, at approximately latitude 59.736 N and longitude 155.259 W; then north along the east section line 1.0 mile to the south boundary of S005S035W09, at approximately latitude 59.751 N and longitude 155.259 W; then east along the south section line 1.0 mile to the east section line, at approximately latitude 59.751 N and longitude 155.230 W; then north along the east section line 1.0 mile to the south boundary of S005S035W03, at approximately latitude 59.765 N and longitude 155.230 W; then east along the south section line 1.0 mile to the east section line, at approximately latitude 59.765 N and longitude 155.201 W; then north along the east section line 1.0 mile to the south boundary of S004ST034W31, at approximately latitude 59.779 N and longitude 155.201 W; then west along the south section line 0.09 mile to the west section line, at approximately latitude 59.779 N and longitude 155.204 W; then north along the west section line 2.0 miles, to the south boundary of S004S034W19, at approximately latitude 59.808 N and longitude 155.204 W; then east along the south section line 1.0 mile to the east section line, at approximately latitude 59.808 N and longitude 155.176 W; then north along the east section line 1.0 mile to the south boundary of section S004S034W17, at approximately latitude 59.823 N and longitude 155.176 W; then east along the south section line 3.0 miles to the east boundary of S004S034W15, at approximately latitude 59.823 N and longitude 155.090 W; then north along the east section line 2.0 miles to the south boundary of S004S034W02, at approximately latitude 59.852 N and longitude 155.090 W; then east along the south section line, approximately 2.64 miles, to the boundary between the Upper Talarik Creek and Newhalen River watersheds, at approximately latitude 59.852 N and longitude 155.014 W; then generally north along the watershed boundary to the south boundary of S003ST034W12, at approximately latitude 59. 924 N and longitude 155.059 W; then west along the south section line approximately 2.06 miles to the west boundary of S003S034W10, at approximately latitude 29.924 N and longitude 155.119 W; then north, along the west section line 1.5 miles to the east-west half section line of S003S034W04, at approximately latitude 59.946 N and longitude 155.119 W; then west along the half-section line 1.0 mile to the west section line, at approximately latitude 59.946 N and longitude 155.295 W; then south along the section line 0.5 mile to the south boundary of S003S034W05, at

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approximately latitude 59.935 N and longitude 155.295 W; then west 1.5 miles to the north-south half-section line of S003S034W06, at approximately latitude 59.935 N and longitude 155.191 W; then north along the half-section line 0.5 mile to the north section line, at approximately latitude 59.946 N and longitude 155.191 W; then west 1.5 miles to the west boundary of S003S035W01, at approximately latitude 59.946 N and longitude 155.233 W; then north along the west section line 0.5 mile to the south boundary of S002S035W35, at approximately latitude 59.953 N and longitude 155.233 W; then west along the south section line 0.5 mile to the north-south half-section line, at approximately latitude 59.953 N and longitude 155.247 W; then north along the half-section line 0.5 mile to the east-west half section line, at approximately latitude 59.960 N and longitude 155.247 W; then west along the half-section line 0.5 mile to the west section line, at approximately latitude 59.960 N and longitude 155.262 W; then north along the west section line to the starting point, on the boundary between the Upper Talarik Creek and Chulitna River watersheds (coordinates above).

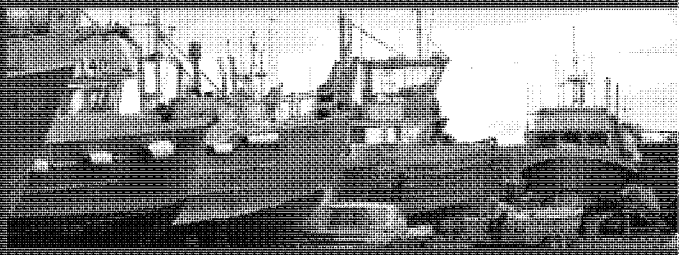
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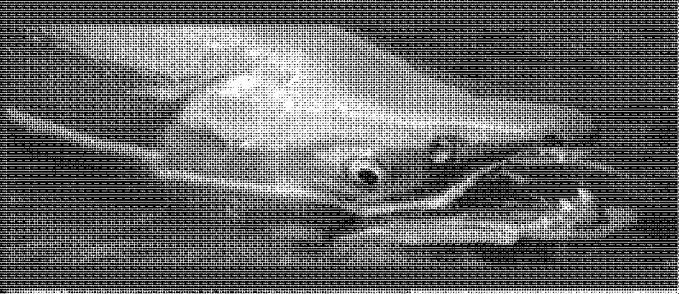
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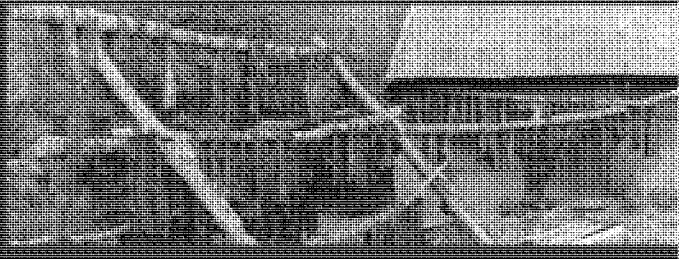
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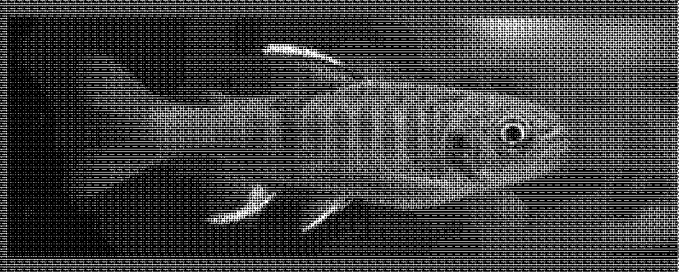
Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act Pebble Deposit Area, Southwest Alaska











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PROPOSED DETERMINATION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 10 PURSUANT TO SECTION 404(C) OF THE CLEAN WATER ACT PEBBLE DEPOSIT AREA, SOUTHWEST ALASKA

U.S. Environmental Protection Agency
Region 10
Seattle, WA

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Main photo: Upper Talarik Creek (Joe Ebersole, EPA)
Thumbnail 1: Fishing boats at Naknek, Alaska (EPA)
Thumbnail 2: Sockeye salmon in the Wood River (Thomas Quinn, University of Washington)
Thumbnail 3: Salmon drying at Koliganek (Alan Boraas, Kenai Peninsula College)
Thumbnail 4: Age-0 coho salmon in the Chignik watershed (Jonny Armstrong)

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EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency (EPA) Region 10 is requesting public comment on a proposed determination to restrict the use of certain waters in the Bristol Bay watershed for disposal of dredged or fill material associated with mining the Pebble deposit, a large ore body in southwest Alaska. EPA Region 10 is taking this step because of the high ecological and economic value of the Bristol Bay watershed and the assessed unacceptable environmental effects that would result from such mining. This proposed determination relies on clear EPA authorities under the Clean Water Act (CWA), and is based on peer-reviewed scientific and technical information. Its scope is geographically narrow and it does not affect other deposits or mine claim holders outside of those affiliated with the Pebble deposit. EPA Region 10 is taking this step pursuant to Section 404(c) of the CWA and its implementing regulations at 40 Code of Federal Regulations (CFR) Part 231.

Alaska's Bristol Bay watershed (Figure ES-1) is an area of unparalleled ecological value, boasting salmon diversity and productivity unrivaled anywhere in North America. As a result, the region is a globally significant resource with outstanding value. The Bristol Bay watershed provides intact, connected habitats—from headwaters to ocean—that support abundant, genetically diverse wild Pacific salmon populations. These salmon populations, in turn, maintain the productivity of the entire ecosystem, including numerous other fish and wildlife species.

The Bristol Bay watershed's streams, wetlands, and other aquatic resources support world-class, economically important commercial and sport fisheries for salmon and other fishes, as well as a more than 4,000-year-old subsistence-based way of life for Alaska Natives. Each year Bristol Bay supports the world's largest runs of sockeye salmon, producing approximately half of the world's sockeye salmon. These sockeye salmon represent the most abundant and diverse populations of this species remaining in the United States. Bristol Bay's Chinook salmon runs are frequently at or near the world's largest, and the region also supports significant coho, chum, and pink salmon populations. Because no hatchery fish are raised or released in the watershed, Bristol Bay's salmon populations are entirely wild. Bristol Bay is remarkable as one of the last places on Earth with such bountiful and sustainable harvests of wild salmon. One of the main factors leading to the success of this fishery is the fact that its aquatic habitats are untouched and pristine, unlike the waters that support many other fisheries.

Nearly 70% of the sockeye and large numbers of the coho, Chinook, pink, and chum salmon are harvested in commercial, subsistence, and recreational fisheries before they can return to their natal lakes and streams to spawn. Thus, these salmon resources have significant economic, nutritional, cultural, and recreational value, both within and beyond the Bristol Bay region. The Bristol Bay watershed's ecological resources generated nearly $480 million in direct economic expenditures and sales and provided employment for over 14,000 full- and part-time workers in 2009. The Bristol Bay commercial salmon fishery generates the largest component of this economic activity, with an estimated

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value of $300 million (sales from fishers to processors) and employment for over 11,000 full- and part-time workers (EPA 2014: Chapter 5).

In February 2011, Northern Dynasty Minerals Ltd. (NDM) formally submitted information to the U.S. Securities and Exchange Commission (SEC) that put forth plans for the development of a large-scale mine at the headwaters of this pristine ecosystem (Figure ES-2). Their proposal outlines several stages of mine development, the smallest being a 2.0-billion-ton mine[1] and the largest being a 6.5-billion-ton mine[2] (Ghaffari et al. 2011, SEC 2011), both of which are larger than 90% of the known ore deposits of this type in the world (EPA 2014: Chapter 4).

The Pebble deposit is a large, low-grade, porphyry copper deposit (containing copper-, gold-, and molybdenum-bearing minerals) that underlies portions of the South Fork Koktuli River (SFK), North Fork Koktuli River (NFK), and Upper Talarik Creek (UTC) watersheds. Based on information provided by NDM to the SEC (Ghaffari et al. 2011, SEC 2011), mining the Pebble deposit is likely to involve excavation of the largest open pit ever constructed in North America, covering up to 6.9 square miles (17.8 km^2) and reaching a depth of as much as 0.77 mile (1.24 km) (EPA 2014: Chapter 6); for reference, the maximum depth of the Grand Canyon is approximately 1 mile. Disposal of resulting waste material would require construction of up to three mine tailings impoundments covering an additional 18.8 square miles (48.6 km^2) and waste rock piles covering up to 8.7 square miles (22.6 km^2) (EPA 2014: Chapter 6) in an area that contains highly productive streams and wetlands. The volume of mine tailings and waste rock produced from the smallest mine proposed by NDM to the SEC (Ghaffari et al. 2011, SEC 2011) would be enough to fill a professional football stadium more than 880 times, whereas the largest mine would do so more than 3,900 times.

In total, these three mine components (mine pit, tailings impoundments, and waste rock piles) would cover an area larger than Manhattan. Mine construction and operation would also require the construction of support facilities, including a major transportation corridor, pipelines, a power-generating station, wastewater treatment plants, housing and support services for workers, administrative offices, and other infrastructure. Such facilities would greatly expand the "footprint" of the mine and affect additional aquatic resources beyond the scope of this proposed determination. Although NDM's preliminary plans (Ghaffari et al. 2011, SEC 2011) could change, any mining of this deposit would, by necessity, require similar mine components, support facilities, and operational features.

Given the extent of streams, wetlands, lakes, and ponds both overlying the Pebble deposit and within adjacent watersheds, excavation of a massive mine pit and construction of large tailings impoundments and waste rock piles would result in discharge of dredged or fill material into these waters. This discharge would result in complete loss of fish habitat due to elimination, dewatering, and

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[1] Ghaffari et al. (2011) call the 2.0 stage mine the "Investment Decision Case," which describes an initial 25-year open pit mine life upon which a decision to initiate permitting, construction, and operations may be based.

[2] Ghaffari et al. (2011) call the 6.5 stage mine the "Resource Case," which is based on 78 years of open pit production and seeks to assess the long-term value of the project in current dollars.

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fragmentation of streams, wetlands, and other aquatic resources. In addition, water withdrawal and capture, storage, treatment, and release of wastewater associated with the mine would significantly impair the fish habitat functions of other streams, wetlands, and aquatic resources. All of these losses would be irreversible.

Based upon information known to EPA about the proposed mine at the Pebble deposit and its potential impacts on fishery resources, and as a result of multiple inquiries, concerns, and petitions to EPA to use its authorities to protect these fishery resources, EPA decided to conduct an ecological risk assessment before considering any additional steps. After three years of study, two rounds of public comment, and independent, external peer review, EPA released its *Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*[3] (Bristol Bay Assessment) (EPA 2014) in January 2014. The Bristol Bay Assessment established that the extraction, storage, treatment, and transportation activities associated with building, operating, and maintaining one of the largest mines ever built would pose significant risks to the unparalleled ecosystem that produces one of the greatest wild salmon fisheries left in the world. In simple terms, the infrastructure necessary to mine the Pebble deposit jeopardizes the long-term health and sustainability of the Bristol Bay ecosystem.

The Bristol Bay Assessment characterizes the significant ecological resources of the region and describes potential impacts on salmon and other fish from large-scale porphyry copper mining at the Pebble deposit. The Bristol Bay Assessment evaluated these impacts using three mine scenarios that represent different stages of mining at the Pebble deposit, based on the amount of ore processed.

- Pebble 0.25 stage mine (approximately 0.25 billion tons of ore over 20 years)
- Pebble 2.0 stage mine (approximately 2.0 billion tons of ore over 25 years)
- Pebble 6.5 stage mine (approximately 6.5 billion tons of ore over 78 years)

Ghaffari et al. (2011) indicate that the total mineral resources at the Pebble deposit are now believed to be approximately 12 billion tons of ore. Thus, it is expected that development of a mine at the Pebble deposit would ultimately be much larger than the 0.25 stage mine and could exceed the 6.5 stage mine. NDM has stated to the public that "the Pebble deposit supports open pit mining utilizing conventional drill, blast and truck-haul methods, with an initial mine life of 25 years and potential for mine extensions to 78 years and beyond" (NDM 2011). This statement, along with others to investors, indicates that NDM is actively considering a mine size between 2.0 and 6.5 billion tons.

Nevertheless, EPA also assessed the impacts of a much smaller mine footprint in the Bristol Bay Assessment. The 0.25 stage mine is based on the worldwide median size porphyry copper deposit (Singer et al. 2008). Although this smaller size is dwarfed by the mine sizes that NDM put forward to the SEC (Ghaffari et al. 2011, SEC 2011), its impacts would still be significant.

[3] For more information about EPA's efforts in Bristol Bay or copies of the Bristol Bay Assessment, see http://www.epa.gov/bristolbay.

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In total, the Bristol Bay Assessment estimates that habitat losses associated with the 0.25 stage mine would include nearly 24 miles (38 km) of streams, representing approximately 5 miles (8 km) of streams with documented anadromous fish occurrence and 19 miles (30 km) of tributaries of those streams (EPA 2014: Chapter 7). Total habitat losses would also include more than 1,200 acres (4.9 km^2) of wetlands, lakes, and ponds, of which approximately 1,100 acres (4.4 km^2) are contiguous with either streams with documented anadromous fish occurrence or tributaries of those streams. For the largest mine that NDM put forward to the SEC (the 6.5 stage mine), stream losses would expand to 94 miles (151 km), representing over 22 miles (36 km) of streams with documented anadromous fish occurrence and 72 miles (115 km) of tributaries of those streams (EPA 2014: Chapter 7). Total habitat losses for the 6.5 stage mine would also include more than 4,900 acres (19.8 km^2) of wetlands, lakes, and ponds, of which approximately 4,100 acres (16.6 km^2) are contiguous with either streams with documented anadromous fish occurrence or tributaries of those streams.

To put these numbers in perspective, stream losses for just the 0.25 stage mine would equal a length of more than 350 football fields and the 0.25 stage mine wetland losses would equal an area of more than 900 football fields. Although Alaska has many streams and wetlands that support salmon, individual streams, stream reaches, wetlands, lakes, and ponds play a critical role in protecting the genetic diversity of Bristol Bay's salmon populations. Individual waters can support local, unique populations (Quinn et al. 2001, Olsen et al. 2003, Ramstad et al. 2010, Quinn et al. 2012). Thus, losing these populations would erode the genetic diversity that is crucial to the stability of the overall Bristol Bay salmon fisheries (Hilborn et al. 2003, Schindler et al. 2010, EPA 2014: Appendix A).

These stream, wetland, and other aquatic resource losses also would reverberate downstream, depriving downstream fish habitats of nutrients, groundwater inputs, and other subsidies from lost upstream aquatic resources. In addition, water withdrawal, capture, storage, treatment, and release at even the 0.25 stage mine would result in streamflow alterations in excess of 20% in more than 9 miles (nearly 15 km) of streams with documented anadromous fish occurrence. These streamflow changes would result in major changes in ecosystem structure and function and would reduce both the extent and quality of fish habitat downstream of the mine to a significant degree. The impacts from the larger mine sizes NDM has forecasted would be significantly higher. The 2.0 and 6.5 stage mines would result in streamflow alterations in excess of 20% in more than 17 miles (27 km) and 33 miles (53 km), respectively, of streams with documented anadromous fish occurrence (EPA 2014: Chapter 7).

The CWA is a law essential for EPA's mission, which is to protect and restore the environment and public health for current and future generations. Section 404(c) of the CWA authorizes EPA to prohibit, restrict, or deny the use of any defined area in waters of the United States for specification as a disposal site whenever it determines, after notice and opportunity for public hearing, that the discharge of dredged or fill material into the area will have an unacceptable adverse effect on fishery areas (including spawning and breeding areas). EPA has used its Section 404(c) authority judiciously and sparingly, having completed only 13 Section 404(c) actions in the 42-year history of the CWA.

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As a first step in the regulatory process pursuant to Section 404(c), EPA Region 10 coordinated with NDM, the Pebble Limited Partnership (PLP),[4] and the State of Alaska to provide them an opportunity to submit information that demonstrated either that no unacceptable adverse effects would result from discharges associated with mining the Pebble deposit or that actions could be taken to prevent unacceptable adverse effects on fishery areas. EPA Region 10 met with both NDM/PLP and the State of Alaska and extended the time period for both to submit this information.

Both NDM/PLP and the State of Alaska submitted information that raised scientific and technical issues, most of which had been previously raised in public comments on the Bristol Bay Assessment. However, this information did not demonstrate to the satisfaction of EPA Region 10 that no unacceptable adverse effects on fishery areas will occur should the disposal of dredged or fill material associated with mining the Pebble deposit proceed.

Therefore, EPA Region 10 has decided to take the next step in the Section 404(c) review process, publication of this proposed determination. As part of a Section 404(c) proposed determination, the EPA Regional Administrator must identify a defined area, known as the disposal site, where its prohibitions or restrictions would apply. In this case, the proposed geographic boundaries of the potential disposal site are the waters within the mine claims held by NDM subsidiaries, including PLP, that fall within the SFK, NFK, and UTC watersheds (Figure ES-3). EPA Region 10 focused on this area because it determined that it best represents the smallest geographical area where the discharge of dredged or fill material associated with mining the Pebble deposit is most likely to occur.

To protect important fishery areas in the SFK, NFK, and UTC watersheds from unacceptable adverse effects, EPA Region 10 recognizes that losses of streams, wetlands, lakes, and ponds and alterations of streamflow each provide a basis to issue this Section 404(c) proposed determination.

Given the proposals made by NDM to develop 2.0- and 6.5-billion-ton mines at the Pebble deposit (Ghaffari et al. 2011, SEC 2011) and EPA's evaluation of the 0.25-billion-ton mine (EPA 2014), the Regional Administrator has reason to believe that mining of the Pebble deposit at any of these sizes, even the smallest, could result in significant and unacceptable adverse effects on ecologically important streams, wetlands, lakes, and ponds and the fishery areas they support.

Accordingly, the Regional Administrator proposes that EPA restrict the discharge of dredged or fill material related to mining the Pebble deposit into waters of the United States within the potential disposal site that would, individually or collectively, result in any of the following.

[4] PLP was created in 2007 by co-owners NDM and Anglo American PLC to design, permit, construct, and operate a long-life mine at the Pebble deposit (Ghaffari et al. 2011). Anglo American PLC withdrew from the partnership in late 2013; since 2013, NDM has been the sole partner in PLP.

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1. Loss of streams

   a. The loss of 5 or more linear miles of streams with documented anadromous fish[5] occurrence; **or**

   b. The loss of 19 or more linear miles of streams where anadromous fish are not currently documented, but that are tributaries of streams with documented anadromous fish occurrence; **or**

2. Loss of wetlands, lakes, and ponds. The loss of 1,100 or more acres of wetlands, lakes, and ponds contiguous with either streams with documented anadromous fish occurrence or tributaries of those streams; **or**

3. Streamflow alterations. Streamflow alterations greater than 20% of daily flow in 9 or more linear miles of streams with documented anadromous fish occurrence.

These restrictions derive from the estimated impacts resulting from the discharge of dredged or fill material associated with construction and routine operation of a 0.25 stage mine at the Pebble deposit, as evaluated in the Bristol Bay Assessment (EPA 2014).

EPA Region 10's evaluation of relevant portions of the Section 404(b)(1) Guidelines (40 CFR Part 230) further demonstrates that discharge of dredged or fill material resulting in the level of adverse effects identified in the proposed restrictions could result in unacceptable adverse effects on fishery areas. Degradation of these aquatic resources would be even more pronounced given extensive cumulative impacts at successive stages of mine expansion (i.e., 2.0 and 6.5 stage mines or larger) at the Pebble deposit, including elevated instream copper concentrations sufficient to cause direct toxicity to fish. Toxic effects on fish would include fish kills; reduced survival, growth, and/or reproduction; and reduced sensory acuity, which is important to salmon for locating natal streams, finding food, and avoiding predators.

EPA Region 10 recognizes it has underestimated potential adverse effects on resources within the SFK, NFK, and UTC watersheds from mining the Pebble deposit for several reasons. This evaluation does not include footprint impacts associated with all of the components necessary to construct and operate such a mine (e.g., a major transportation corridor, pipelines, a power-generating station, wastewater treatment plants, housing and support services for workers, administrative offices, and other infrastructure). It also does not rely upon impacts resulting from potential accidents and failures as a basis for its findings. There is a high likelihood that wastewater treatment plant failures would occur, given the long management horizon expected for the mine (i.e., decades). There is also real uncertainty as to whether severe accidents or failures, such as a complete wastewater treatment plant failure or a tailings dam failure, could be adequately prevented over a management horizon of centuries, or even in perpetuity, particularly in such a geographically remote area subject to climate extremes. If such events

[5] Anadromous fish are those that hatch in freshwater habitats, migrate to sea for a period of relatively rapid growth, and then return to freshwater habitats to spawn. For the purposes of these restrictions, anadromous fish refers to coho or silver salmon (*Oncorhynchus kisutch*), Chinook or king salmon (*O. tshawytscha*), sockeye or red salmon (*O. nerka*), chum or dog salmon (*O. keta*), and pink or humpback salmon (*O. gorbuscha*).

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were to occur, they would have profound ecological ramifications. By not relying on potential accidents and failures, EPA Region 10 has employed a conservative analysis of adverse effects.

Known compensatory mitigation techniques are unlikely to offset impacts of the nature and magnitude described in the proposed restrictions. Compensatory mitigation is the concept of improving stream or wetland health in other parts of the watershed to compensate for stream or wetland destruction or degradation in a separate area. Compensatory mitigation efforts typically involve restoration and enhancement of waters that have potential for improvement in ecological services. However, the waters of the Bristol Bay watershed are already among the most productive in the world. EPA Region 10 sees little likelihood that human activity could improve upon the high-quality natural environment in the Bristol Bay watershed that nature has created and that has thus far been preserved. Compensation methods proposed by PLP, including placement of instream structures, stream fertilization, and construction of spawning channels, have typically had only variable, local, or temporary effects, were designed for use in degraded watersheds, or resulted in adverse, unintended consequences (EPA 2014: Appendix J).

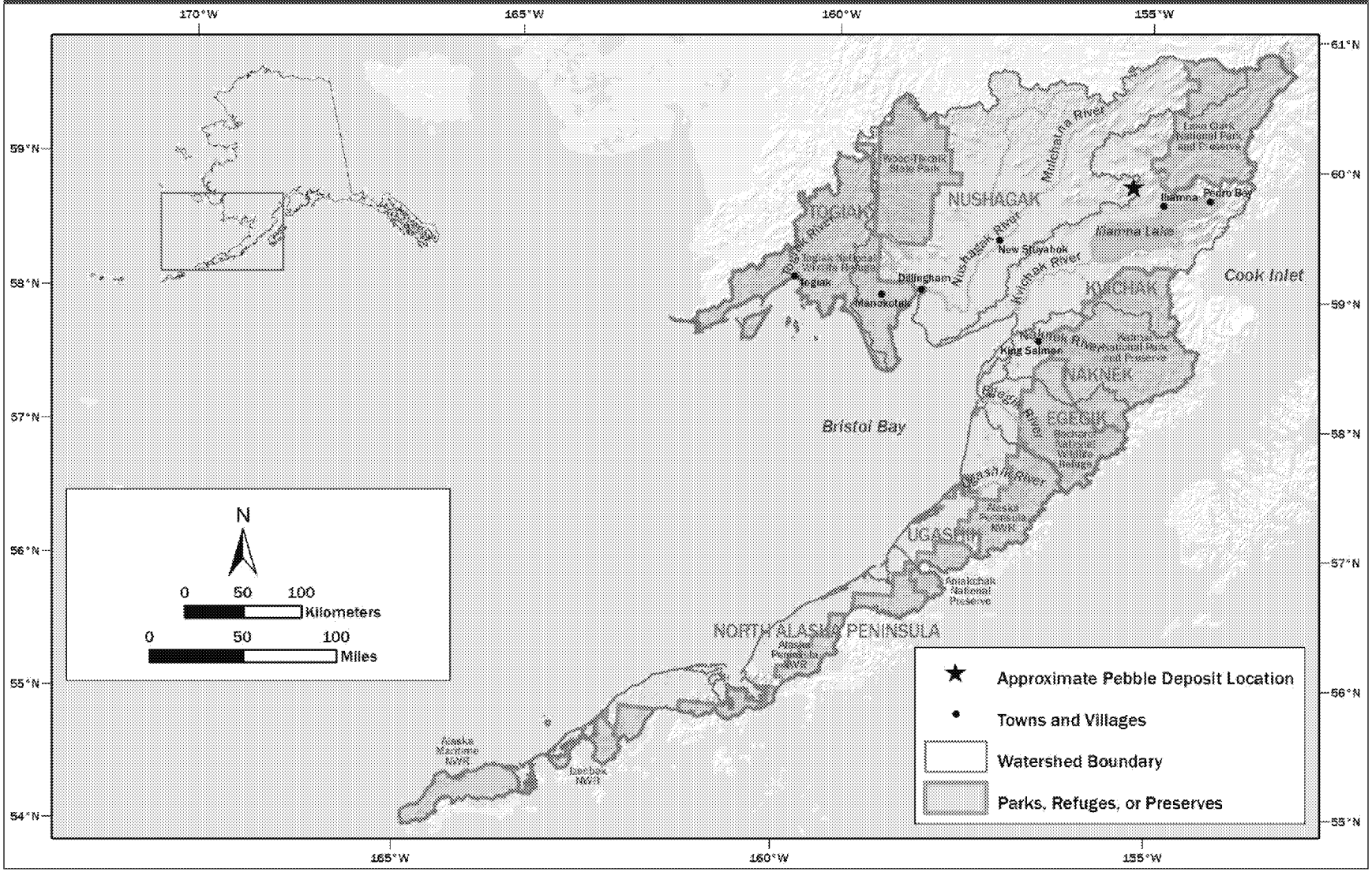
Mine alternatives with lower environmental impacts at the Pebble deposit are not evaluated in either the Bristol Bay Assessment or this Section 404(c) proposed determination. If these proposed restrictions are finalized, proposals to mine the Pebble deposit that have impacts below each of these restrictions would proceed to the Section 404 permitting process with the U.S. Army Corps of Engineers. Any such proposals would have to meet the statutory and regulatory requirements for permitting under Section 404.

After evaluating available information, EPA Region 10 has reason to believe that unacceptable adverse effects on fishery areas (including spawning and breeding areas) could result from the discharge of dredge or fill material associated with mining the Pebble deposit. Further, it has not been demonstrated to the satisfaction of EPA Region 10 that no unacceptable adverse effect(s) will occur.

EPA Region 10 is soliciting public comment on all issues discussed in this proposed determination, including likely adverse impacts on fishery resources, mitigation measures to potentially address these impacts, and other options to restrict or prohibit potentially harmful discharges of dredged or fill material associated with mining the Pebble deposit. All comments will be fully considered as EPA Region 10 decides whether to withdraw the proposed determination or forward to EPA Headquarters a recommended determination to restrict the use of certain waters in the SFK, NFK, and UTC watersheds in southwest Alaska as disposal sites for the discharge of dredged or fill material associated with mining the Pebble deposit. Should EPA Region 10 make a recommended determination, EPA Headquarters will then determine, based on the recommended determination, public comments received on the proposed determination, and all other available, relevant information, whether to issue a final determination under Section 404(c).

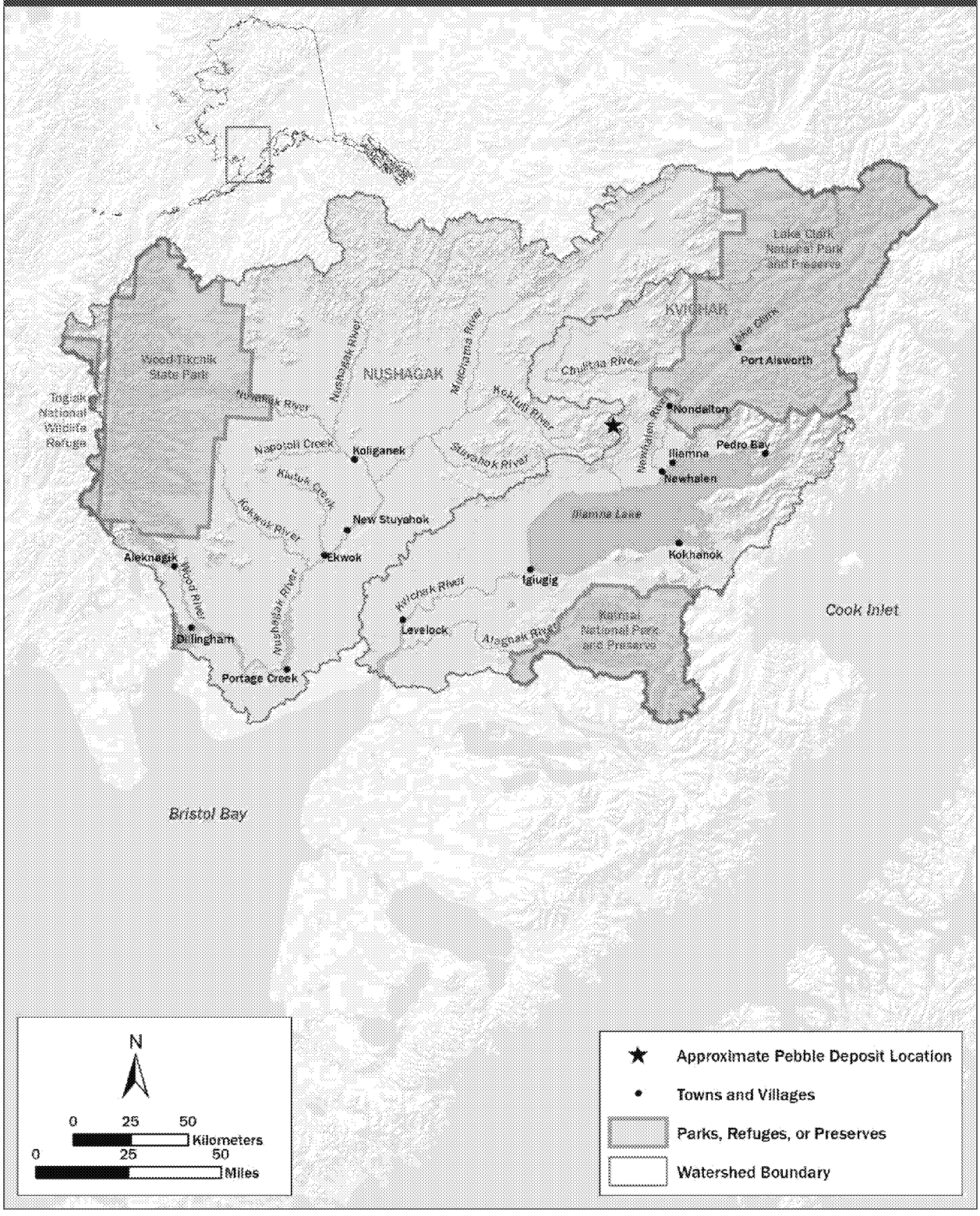
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Figure ES-1. The Bristol Bay watershed, composed of the Togiak, Nushagak, Kvichak, Naknek, Egegik, and Ugashik River watersheds and the North Alaska Peninsula. Only selected towns and villages are shown on this map.



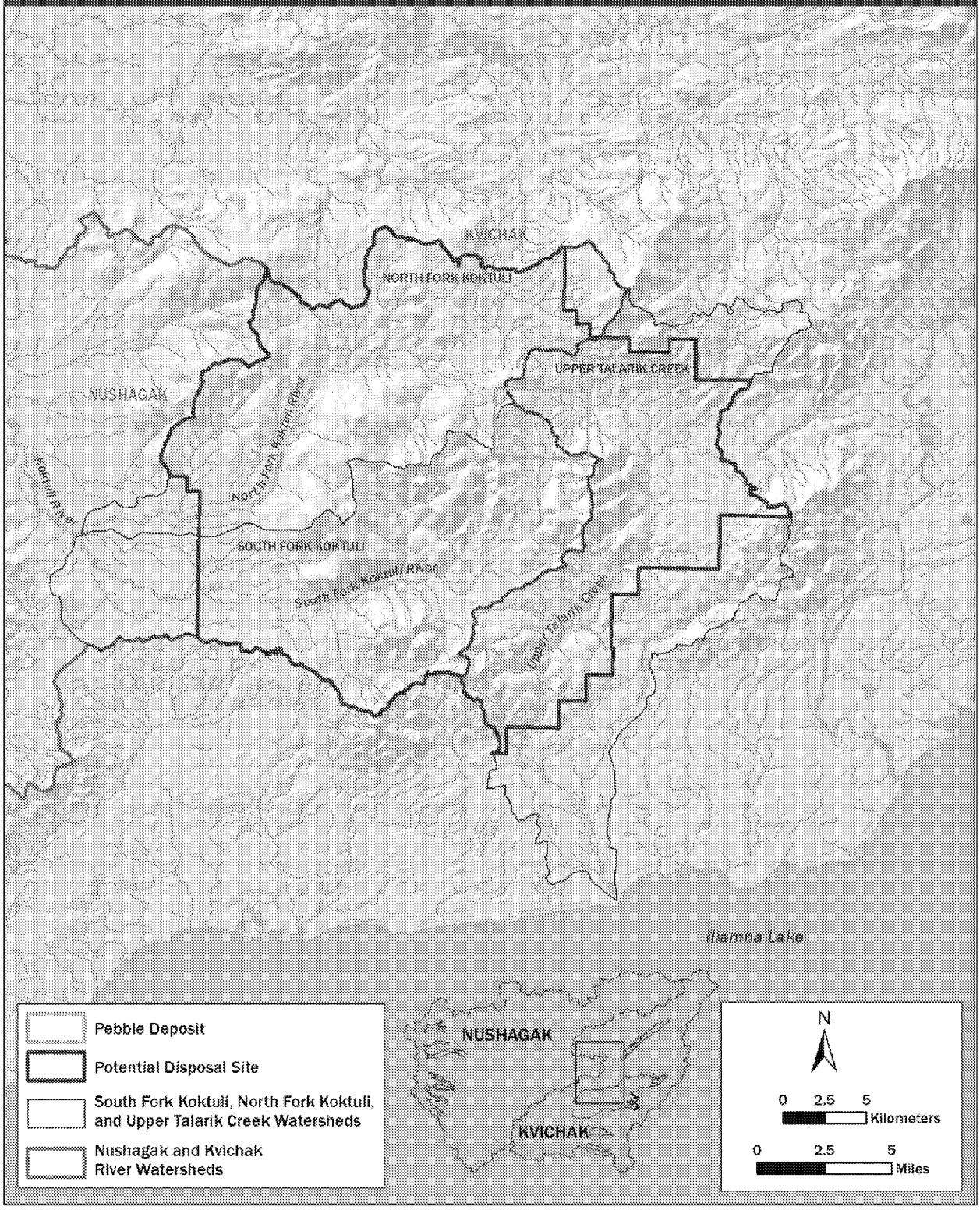
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Figure ES-2. The Nushagak and Kvichak River watersheds.



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Figure ES-3. The potential disposal site delineated in the proposed determination.



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ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OW–2017–0369; FRL 9974–52—Region 10]

Notification of Decision Not To Withdraw Proposed Determination To Restrict the Use of an Area as a Disposal Site; Pebble Deposit Area, Southwest Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency (EPA) Administrator and Region 10 Regional Administrator are announcing the EPA's decision not to withdraw at this time the EPA Region 10 July 2014 Proposed Determination that was issued pursuant to Section 404(c) of the Clean Water Act and EPA's implementing regulations. Today's notice suspends the proceeding to withdraw the Proposed Determination and leaves that Determination in place pending further consideration by the Agency of information that is relevant to the protection of the world-class fisheries contained in the Bristol Bay watershed. The Agency intends at a future time to solicit public comment on what further steps, if any, the Agency should take under Section 404(c) to prevent unacceptable adverse effects to the watershed's abundant and valuable fishery resources in light of the permit application that has now been submitted to the U.S. Army Corps of Engineers.

FOR FURTHER INFORMATION CONTACT: Visit *www.epa.gov/bristolbay* or contact a Bristol Bay-specific phone line, (206) 553–0040, or email address, *r10bristolbay@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How to Obtain a Copy of the Proposed Determination: The July 2014 Proposed Determination is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.*

B. How to Obtain a Copy of the Settlement Agreement: The May 11, 2017, settlement agreement is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.*

C. How to Obtain a Copy of the Proposal to Withdraw the Proposed Determination: The July 2017 proposal to withdraw the Proposed Determination is available via the internet on the EPA Region 10 Bristol Bay site at *www.epa.gov/bristolbay.* Information regarding the proposal to withdraw can also be found in the docket for this effort at *www.regulations.gov,* see docket ID No. EPA–R10–OW–2017–0369 or use the following link: *https://www.regulations.gov/docket?D=EPA-R10-OW-2017-0369.*

II. Background

On July 19, 2017, EPA Region 10 published in the **Federal Register** (82 FR 33123) a notice of a proposal to withdraw its July 2014 Proposed Determination under section 404(c) of the Clean Water Act (CWA) to restrict the use of certain waters in the South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek watersheds (located within the larger Bristol Bay watershed) as disposal sites for dredged or fill material associated with mining the Pebble deposit, a copper-, gold- and molybdenum-bearing ore body. A Proposed Determination is the second step in EPA's four-step CWA Section 404(c) review process of: (1) Initiation, (2) Proposed Determination, (3) Recommended Determination, and (4) Final Determination (40 CFR part 231).

The July 19, 2017 (82 FR 33123), notice opened a public comment period that closed on October 17, 2017. EPA held two public hearings in the Bristol Bay watershed during the week of October 9, 2017. EPA also consulted with federally recognized tribal governments from the Bristol Bay region and Alaska Native Claims Settlement Act (ANCSA) Regional and Village Corporations with lands in the Bristol Bay watershed on the Agency's proposal to withdraw.

EPA agreed to initiate a process to propose to withdraw the 2014 Proposed Determination as part of a May 11, 2017, settlement agreement with the Pebble Limited Partnership (PLP), whose subsidiaries own the mineral claims to the Pebble deposit. The settlement agreement resolved all of PLP's outstanding lawsuits against EPA. Also under the terms of the settlement agreement, Region 10 may not forward a signed Recommended Determination, if such a decision is made, before either May 11, 2021, or until EPA provides public notice of a final Environmental Impact Statement (EIS) issued by the U.S. Army Corps of Engineers (Corps) on PLP's CWA Section 404 permit application regarding the Pebble deposit, whichever comes first. For a link to a copy of the settlement agreement, see Section I of this notice.

In its July 19, 2017, notice and during the concurrent tribal and ANCSA Corporation consultation periods, EPA defined the scope of the input it was seeking on its proposal to withdraw. Specifically, EPA sought public comment and tribal and ANCSA Corporation input on three reasons underlying its proposed withdrawal. EPA's reasons were that withdrawing the Proposed Determination now would:

1. Provide PLP with additional time to submit a section 404 permit application to the Corps,
2. Remove any uncertainty, real or perceived, about PLP's ability to submit a permit application and have that permit application reviewed, and
3. Allow the factual record regarding any forthcoming permit application to develop.

In addition to seeking comment on whether to withdraw the July 2014 Proposed Determination at this time for the reasons stated above, in the event that the final decision was to withdraw the Proposed Determination, EPA also sought comment on whether the Administrator should review and reconsider the withdrawal decision consistent with 40 CFR 231.5(c).

III. Summary of Input From Public Comment, Tribal Consultation, and ANCSA Corporation Consultation Periods

During the public comment period, EPA received more than one million public comments regarding its proposal to withdraw. An overwhelming majority of these commenters expressed opposition to withdrawal of the Proposed Determination. EPA also held two public hearings in the Bristol Bay watershed on the proposal to withdraw; approximately 200 people participated in the hearings. Of the 119 participants who testified, an overwhelming majority also expressed opposition to withdrawal of the Proposed Determination. Similarly, the vast majority of tribal governments and ANCSA Corporation shareholders who consulted with EPA expressed opposition to the proposed withdrawal. The public comments, transcripts from the public hearings, and summaries of the tribal and ANCSA Corporation consultations can be found in the docket for this effort; see Section I of this notice for information on how to access this docket.

A. Comments Opposing Withdrawal That Were Within the Scope of EPA's July 2017 Notice

A large number of commenters expressed opposition to the proposal to withdraw. Commenters stated that withdrawal of the Proposed Determination is not necessary to allow for PLP to submit its permit application

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because nothing in the regulations prevents PLP from submitting a permit application while a section 404(c) review is ongoing. Other commenters indicated that regardless of whether the Proposed Determination is withdrawn, other provisions of the settlement agreement pause EPA's section 404(c) review and provide PLP with additional time to submit its permit application and allow that permit application to be reviewed by the Corps. EPA received many comments noting that withdrawal of the Proposed Determination is not necessary to ensure that the Corps' 404 permit and National Environmental Policy Act (NEPA) review processes proceed. The applicable regulations prevent the Corps from issuing a final permit decision for a project while a section 404(c) review is ongoing (33 CFR 323.6(b) and 40 CFR 231.3(a)(2)), but affirmatively provide that the Corps will continue to complete its administrative processing of PLP's permit application, including final coordination with EPA under 33 CFR part 325, while EPA's section 404(c) review is underway.

Commenters also stated that it is not necessary to withdraw the Proposed Determination in order to allow the factual record associated with a permit application from PLP to develop because nothing in the statute, its implementing regulations, or the Proposed Determination preclude PLP from submitting a permit application and the Corps from reviewing that application. In addition, some commenters stated that the Proposed Determination is supported by a sufficient factual record that does not need further development.

Commenters also noted that there is precedent for EPA leaving a Proposed Determination in place while it awaits additional project-related information and cited EPA's section 404(c) review process relating to the Pamo Dam project where EPA kept its Proposed Determination in place pending completion and review of additional information and analysis by the project proponent.[1] Commenters also noted that EPA's section 404(c) regulations allow it to extend the timeframes for section 404(c) decisions for "good cause" (40 CFR 231.8) and argued that EPA has good cause in this case to extend the specific time period at 40 CFR 231.5(a) for the Regional Administrator to decide whether to withdraw a Proposed Determination or prepare a Recommended Determination (which is the next step in the section 404(c) review process). Commenters also noted that when EPA first initiated its section 404(c) action in February 2014, PLP told EPA that it supported pausing EPA's section 404(c) review process for "good cause" pursuant to 40 CFR 231.8 to allow time for it to submit its permit application and for that application to be reviewed.[2]

Commenters also asserted that EPA's July 2017 notice was inappropriately limited to process and policy arguments and did not adequately consider the underlying scientific and technical record in the July 2014 Proposed Determination.

B. Comments Supporting Withdrawal That Were Within the Scope of EPA's July 2017 Notice

Commenters in support of withdrawal of the Proposed Determination indicated that EPA preemptively issued its Proposed Determination before PLP submitted a permit application or the Corps initiated the NEPA review process. These commenters stated that this was an overreach by EPA and that it denied PLP due process. Commenters felt that the Section 404 permitting process should be allowed to proceed, which would allow future decisions to be made based on the permit application materials, related mitigation strategies, and NEPA review. Commenters stated that this would allow the Agency to examine all possible merits of a project, as well as potential environmental impacts, through an EIS. Commenters noted that the NEPA process considers the views of a much broader group of constituents, including the Secretary of the Interior, Fish and Wildlife Service, National Marine Fisheries Service, State Historic Preservation Office, and the Coast Guard.

Some commenters asserted that EPA does not have the authority to initiate the section 404(c) process or issue a Proposed Determination in the absence of a permit application. In addition, some commenters indicated that, in their view, withdrawing the Proposed Determination was necessary in order for the Corps to accept and review a permit application from PLP and conduct the NEPA review process.

Commenters also expressed a belief that the issuance of the Proposed Determination prevents the development of a full record by stifling the extensive permitting process that would be required to permit a mine of this scale, including local, state, and federal permits. They noted that the permit application will provide comprehensive, site-specific data and alternatives analysis, and that the process will ensure a rigorous review, including development of an EIS, and consideration of mitigation strategies. Several commenters stated that the fate of the project should not be decided without consideration of the full social, economic, and environmental impacts, which would occur during permit review.

Many of the other reasons offered by commenters in support of the withdrawal revolved around their policy view that EPA should not take a section 404(c) action in advance of the filing of a permit application because such an action would have negative repercussions for the business and investing community. Commenters noted that maintaining the integrity of the existing regulatory review process and ensuring due process for all projects is important to Alaska's economy for future investment in natural resource development.

C. Comments Received That Were Outside the Scope of EPA's July 2017 Notice

EPA received comments regarding the specific scientific and technical record underlying the Proposed Determination and subsequent public process. Certain commenters expressed support for the analysis conducted as part of EPA's Bristol Bay Watershed Assessment (BBWA) completed in 2014 (for more information regarding the BBWA see: *www.epa.gov/bristolbay*), which these commenters indicated did not support withdrawal of the Proposed Determination. Other commenters argued that the BBWA was flawed and should not be a basis for agency decision making. EPA also received comments relating to economic value of a potential mine and metals to be mined as a general matter and the potential value of the mine for the local and national economy.

EPA also received comments regarding the amount of public input relating to this issue as a general matter and the amount of resources that both EPA and stakeholders have expended on Bristol Bay-related issues associated with mining of the Pebble deposit. Comments also focused on the ecological, cultural, and economic value of Bristol Bay's fishery resources, and potential environmental, cultural, and economic harms to these and other resources associated with potential mining activity.

[1] 54 FR 30599 (July 21, 1989).

[2] Letter from Tom Collier, CEO, PLP to Dennis McLerran, former EPA R10 Regional Administrator, (March 11, 2014).

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IV. Recent Developments

Since the close of the public comment, tribal consultation, and ANCSA Corporation consultation periods on October 17, 2017, there have been a number of other relevant developments. On December 22, 2017, PLP submitted a section 404 permit application to the Corps that proposes to develop a mine at the Pebble deposit. On January 5, 2018, the Corps issued a public notice that provides PLP's permit application to the public and states that an EIS will be required as part of its permit review process consistent with NEPA. The Corps also invited relevant federal and state agencies to be cooperating agencies on the development of this EIS.

Since PLP has now submitted its CWA Section 404 permit application to the Corps regarding the Pebble deposit, Region 10 will not forward a signed Recommended Determination, if such a decision is made, before either May 11, 2021, or public notice of a final EIS on PLP's Section 404 permit application regarding the Pebble deposit, whichever comes first.

V. Conclusions

In making its decision regarding whether to withdraw the Proposed Determination at this time, EPA considered its relevant statutory authority, applicable regulations, and the input it received as part of the tribal consultation, ANCSA consultation, and public comment periods regarding the Agency's reasons for its proposing withdrawal as well as the recent developments.

1. Additional time to submit Section 404 permit application and initiate permit review. As several commenters noted, PLP has had the ability as a legal matter to submit a permit application while a section 404(c) review is ongoing. In fact, PLP submitted its application on December 22, 2017, notwithstanding the pending section 404(c) review and existing Proposed Determination, and the Corps issued a public notice that provides PLP's permit application to the public and states that an EIS will be required as part of its permit review process consistent with NEPA. As a result, withdrawal of the Proposed Determination at this time is not necessary to provide PLP with additional time to submit a section 404 permit application to the Corps and potentially allow the Corps permitting process to initiate.

2. Remove uncertainty regarding PLP's ability to submit Section 404 permit application and have it reviewed. As many commenters pointed out and as EPA noted in its proposal, the Corps' regulations allow it to accept, review, and process a permit application for a proposed project even if EPA has an ongoing section 404(c) review for that project. In addition, since PLP has now submitted its permit application to the Corps regarding the Pebble deposit and the Corps has initiated its permit review process and begun taking steps to initiate development of an EIS for this project, any potential uncertainty about PLP's ability to submit a permit application and have that permit application reviewed by the Corps has been resolved. The Corps' regulations state that it will continue to complete its administrative processing of a permit application for a proposed project if EPA has an ongoing section 404(c) review for that project. While the Corps cannot issue a final decision on the permit application while a section 404(c) process remains open and unresolved (33 CFR 323.6(b)), in this case, such a decision is likely a number of years away. Therefore, this reason to withdraw the Proposed Determination at this time is no longer applicable.

3. Allow factual record for Section 404 permit application to develop. As previously noted, the Corps has already initiated its permit review process for PLP's application. Even if EPA leaves the Proposed Determination in place at this time, EPA will provide PLP with nearly three and a half years (unless a final EIS for the project is noticed sooner) to advance through the permit review process before Region 10 could forward a signed Recommended Determination to EPA Headquarters, if such a decision is made. Thus, in light of EPA's forbearance from proceeding to the next step of the section 404(c) process until a later time as described above, EPA concludes that the factual record regarding the permit application can develop notwithstanding the Proposed Determination. EPA has discretion to consider that factual record after it has been further developed before Region 10 determines whether to forward a signed Recommended Determination to EPA Headquarters and, if such a decision is made, to determine the contents of such a Recommended Determination. As such, this reason does not support withdrawal of the Proposed Determination at this time.

Further, in light of recent developments and the framework outlined in the settlement agreement, many of the key concerns raised by those who supported withdrawal have already been resolved, even while the Proposed Determination remains in place. For example, concerns regarding EPA potentially finalizing its section 404(c) review in advance of PLP submitting a permit application, concerns that the Corps would not accept or process PLP's permit application with an open section 404(c) action, and concerns that PLP should be provided more time to advance through the Section 404 permit and NEPA review processes before EPA makes any decisions regarding potentially advancing its section 404(c) review are moot.

Given the relevant statutory authority, applicable regulations, recent developments, public comments, tribal input, and ANCSA Corporation input described above, the Agency has decided not to withdraw the 2014 Proposed Determination at this time. Today's notice suspends the proceeding to withdraw the Proposed Determination and leaves that Determination in place pending consideration of any other information that is relevant to the protection of the world-class fisheries contained in the Bristol Bay watershed in light of the permit application that has now been submitted to the Corps. As noted above, EPA also sought comment on whether the Administrator should review and reconsider the withdrawal decision consistent with 40 CFR 231.5(c) in the event that the final decision was to withdraw the Proposed Determination. Since today's decision is not to withdraw the Proposed Determination at this time, comments received on this issue do not need to be addressed.

EPA acknowledges the significant public interest on this issue and remains committed to listening to all stakeholders as the permitting process progresses. Neither this decision nor the previous settlement agreement guarantees or prejudges a particular outcome in the permitting process or any particular EPA decision-making under section 404(c) or otherwise constrain EPA's discretion except as provided in the terms of the settlement agreement.

EPA received several comments stating that EPA cannot withdraw a Proposed Determination without considering the proposed restrictions or the science or technical information underlying the Proposed Determination. In light of EPA's decision not to withdraw the Proposed Determination, those comments are moot.

EPA also received comments that it has to withdraw the Proposed Determination because it does not have the statutory authority to initiate the section 404(c) process before a permit application has been filed with the

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Corps. To the contrary, EPA has the authority whenever it makes the requisite finding of unacceptable adverse effect. 33 U.S.C. 1344(c); 40 CFR 231.1(a) & (c); *see also Mingo Logan Coal Co.* v. *EPA,* 714 F.3d 608, 613 (DC Cir. 2013). As such, EPA need not withdraw the Proposed Determination on the basis of a lack of statutory authority because EPA had authority to issue the Proposed Determination.

VI. Further Proceedings

EPA's regulations at 40 CFR 231.5(a) provide a specific time period for the Regional Administrator to decide whether to withdraw a Proposed Determination or prepare a Recommended Determination. As explained above, the Agency has decided not to withdraw the Proposed Determination at this time and is suspending this withdrawal proceeding and leaving the Proposed Determination in place. As previously noted, however, under the terms of the May 2017 settlement agreement, Region 10 may not forward a signed Recommended Determination, if such a decision is made, before either May 11, 2021, or until public notice of a final EIS on PLP's CWA Section 404 permit application regarding the Pebble deposit, whichever comes first.

The Agency intends at a future time to solicit public comment on what further steps, if any, the Agency should take in the section 404(c) process in order to prevent unacceptable adverse effects to the watershed's world-class fisheries in light of the permit application that has now been submitted to the Corps. EPA will review and consider any other relevant information that becomes available during the interim. EPA has determined that there is good cause under 40 CFR 231.8 to extend the regulatory time frames in 40 CFR 231.5(a) in order to allow for an additional public comment period and to align with the timeframes established in the settlement agreement.

Dated: January 26, 2018.

Chris Hladick,

Regional Administrator, EPA Region 10.

[FR Doc. 2018–04092 Filed 2–27–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2017–0438; FRL–9974–30–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Annual Public Water Systems Compliance Report (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Annual Public Water System Compliance Report (EPA ICR No. 1812.06, OMB Control No. 2020–0020), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through April 30, 2018. Public comments were previously requested via the **Federal Register** on September 29, 2017 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before March 30, 2018.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2017–0438 to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Raquel Taveras, Monitoring, Assistance and Media Programs Division, Office of Compliance, MC–2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–9651; fax number: (202) 564–7083; email address: *taveras.raquel@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Section 1414(c)(3)(A) of the Safe Drinking Water Act (SDWA) requires that each state (a term that includes states, commonwealths, tribes and territories) that has primary enforcement authority under the SDWA shall prepare, make readily available to the public, and submit to the Administrator of EPA, an annual report of violations of national primary drinking water regulations in the state. These Annual State Public Water System Compliance Reports are to include violations of maximum contaminant levels, treatment requirements, variances and exemptions, and monitoring requirements determined to be significant by the Administrator after consultation with the states. To minimize a state's burden in preparing its annual statutorily-required report, EPA issued guidance that explains what Section 1414(c)(3)(A) requires and provides model language and reporting templates. EPA also annually makes available to the states a computer query that generates for each state (from information states are already separately required to submit to EPA's national database on a quarterly basis) the required violations information in a table consistent with the reporting template in EPA's guidance.

Form numbers: None.

Respondents/affected entities: States that have primacy enforcement authority and meet the definition of ''state'' under the SDWA.

Respondent's obligation to respond: Mandatory Section 1414 (c)(3)(A) of SDWA.

Estimated number of respondents: 55 (total).

Frequency of response: Annually.

Total estimated burden: 4,400 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $470,000 (per year), includes $0 annualized capital or operation & maintenance costs.

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E. SCOTT PRUITT
ADMINISTRATOR

June 26, 2018

MEMORANDUM

SUBJECT: Updating the EPA's Regulations Implementing Clean Water Act Section 404(c)

FROM: E. Scott Pruitt

TO: General Counsel
Assistant Administrator, Office of Water
Regional Administrators

It is essential that the U.S. Environmental Protection Agency adhere to its core mission of protecting human health and the environment in a manner that is fully considered as well as consistent with the agency's authority. When the EPA uses its authority preemptively and without the benefit of the fully developed factual record or attempts to reimagine its authority in ways that diverge from statutory text or congressional intent, it diverts its attention from this core mission and engages in decision making without a full understanding of the impacts of those decisions. To address this concern, at every opportunity I have directed the agency to ensure predictability and regulatory certainty and take actions based upon a comprehensive understanding of the facts. These are the hallmarks of the proper exercise of administrative authority and due process under the law.

Today, I am directing the Office of Water to take another step toward returning the agency to its core mission and providing regulatory certainty by developing a proposal to change the regulations governing the EPA's exercise of its authority under *Clean Water Act* section 404(c), which allows the EPA to veto the issuance of permits by the U.S. Army Corps of Engineers or an approved state to discharge dredged or fill material at specified disposal sites. These regulations were last revised nearly 40 years ago – at a time in our history when environmental safeguards and analytical methods were far less developed than today. The EPA's regulations should reflect today's permitting process and modern-day methods and protections, including the robust existing processes under the *National Environmental Policy Act* that already require federal agencies to consider the environmental and related social and economic effects of their proposed actions while providing opportunities for public review and comment on those evaluations. Any new regulations should seek to address significant concerns surrounding the EPA's prior use of its veto authority before a permit application has been filed or after a permit has been issued. This long-overdue update to the regulations has the promise of increasing certainty for landowners, investors,

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businesses and entrepreneurs to make investment decisions while preserving the EPA's authority to restrict discharges of dredge or fill material that will have an unacceptable adverse effect on water supplies, recreation, fisheries and wildlife.

Section 404 of the *Clean Water Act* regulates the discharge of dredged or fill material into waters of the United States by assigning differing roles to the Administrator and the Secretary of the Army. Section 404(a) empowers the Secretary of the Army, acting through the Army Corps of Engineers, to issue permits allowing for discharge of dredged or fill material at "specified disposal sites." States may assume administration of this program, as Michigan and New Jersey have done. Section 404(b) provides that the Corps or state shall specify each disposal site for each permit "subject to subsection (c)." The EPA has developed guidelines for this process. Section 404(c) provides the EPA with so-called veto authority. Specifically, section 404(c) authorizes the Administrator "to prohibit the specification (including withdrawal of the specification) of any defined area as a disposal site" as well as to "deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site ... whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife or recreational areas."

In 1979 – seven years after Congress enacted section 404 – the EPA promulgated regulations that established procedures for exercising authority under section 404(c). *See* 44 FR 58076 (Oct. 9, 1979). The regulations establish defined steps with specific associated criteria: The EPA's regional administrators are given responsibility for initiating the 404(c) process, issuing a proposed determination and preparing and transmitting to EPA Headquarters a recommended determination to prohibit, withdraw, deny or restrict the specification of a site as a disposal site. The Administrator, upon receipt of a recommended determination and after consultation with the Corps or the state, has the authority to issue a final determination to affirm, modify or rescind the recommendation determination. The EPA has issued 13 final determinations since 1972 at various stages in the permitting process, including two instances where the action extended to areas for which a permit application was not pending and other instances after a permit had been issued.[1]

The EPA has asserted since 1979 that its "section 404(c) authority may be exercised before a permit is applied for, while an application is pending or after a permit has been issued." 44 FR at 58076; *see also* 40 C.F.R. § 231.1(c). Commenters at the time the regulations were proposed opposed the use of the EPA's authority before a permit application had been received or after a permit had been issued by the Corps or state. 44 FR at 58077. The EPA responded to concerns about the practical application of pre-permit use of 404(c) by noting that this approach will facilitate planning by developers and industry and "eliminate frustrating situations in which someone spends time and money developing a project for an inappropriate site and learns at an advanced stage that he must start over." *Id.* The EPA also stated that while "the statute on its face clearly allows EPA to act after the Corps issued a permit," the EPA "recognize[d] that where possible it is much preferable to exercise this authority before the Corps or state has issued a permit, and before the permit holder has begun operations." *Id.*

[1] *See* U.S. EPA, Chronology of 404(c) Actions, *available at* https://www.epa.gov/cwa-404/chronology-404c-actions.

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EPA-19-1101-G-000443
Bristol Bay/Pebble Mine 2019
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During the prior administration, the EPA proposed to restrict discharges of dredge and fill material associated with mining activity near Bristol Bay, Alaska, which drew significant public scrutiny. Before advocates of mining of the Pebble Deposit submitted a permit application to the Corps, EPA Region 10 undertook an ecological risk assessment of three mining scenarios of different sizes based on information submitted to the Securities and Exchange Commission. Region 10 then issued a Proposed Determination to restrict the discharge of dredged or fill material from mining of the Pebble Deposit for "the potential disposal site [defined as] the waters within the mine claims held by [Northern Dynasty Minerals] subsidiaries, including PLP [Pebble Limited Partnership], that fall within the [South Fork Koktuli River, North Fork Koktuli River and Upper Talarik Creek] watersheds." PLP subsequently obtained a preliminary injunction that halted the section 404(c) process before Region 10 could determine whether to prepare a recommended determination to transmit to EPA Headquarters. In December 2017, PLP submitted a permit application to the Corps. Earlier this year, the EPA suspended its proposed withdrawal of the proposed determination; the EPA also has committed not to send a recommended determination from Region 10 to EPA Headquarters until after a final Environmental Impact Statement has been completed by the Corps, so long as that EIS is completed by May 2021. I believe that it is critical for the agency to participate in the EIS process and review the final EIS in detail before determining whether to proceed with the section 404(c) process in this case.

* * *

The EPA's historical interpretation of its statutory authority and its current regulatory framework applies the same procedures notwithstanding whether a permit application has been filed or a permit issued. I am concerned that the mere potential of the EPA's use of its section 404(c) authority before or after the permitting process could influence investment decisions and chill economic growth by short-circuiting the permitting process. Although the Corps can process a permit application and conduct a NEPA analysis while a section 404(c) action is ongoing, it cannot issue a permit. Moreover, the short timeframes in EPA's existing regulations allow the Administrator to issue a final determination restricting the specification of a site as a disposal site within just a few months' time from the start of the process. I am also concerned that under current regulations, the EPA could issue a final determination without the benefit of full information about the project for which a permit is sought, the proposed disposal areas and the environmental impacts of those activities.

Accordingly, I direct the Office of Water to prepare a proposal for submission to the Office of Management and Budget within six months from the date of this directive that proposes to consider, at a minimum, the following changes to EPA's regulations that would govern the future use of EPA's section 404(c) authority and seek public comment thereon:

- Eliminating the authority to initiate the section 404(c) process before a section 404 permit application has been filed with the Corps or a state, otherwise known as the "preemptive veto."

- Eliminating the authority to initiate the section 404(c) process after a permit has been issued by the Corps or a state, otherwise known as the "retroactive veto."

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- Requiring a regional administrator to obtain approval from EPA Headquarters before initiating the section 404(c) process.

- Requiring a regional administrator to review and consider the findings of a final Environmental Assessment or Environmental Impact Statement prepared by the Corps or a state before preparing and publishing notice of a proposed determination.

- Requiring the agency to publish and seek public comment on a final determination before such a determination takes effect.

Changing the current regulations would help to ensure that the EPA exercises its extraordinary authority under section 404(c) in a careful, predictable and prudent manner. The guiding principle should be to provide landowners, developers and entrepreneurs with certainty that the EPA will not short-circuit the permitting process and will consider all available information, including the results of an EIS, before taking any steps to veto a permit application. Adopting these changes would further the EPA's core mission of protecting human health and the environment while improving predictability and regulatory certainty. The Office of Water shall begin preparing a regulatory proposal forthwith that includes these proposed changes for review and public comment.

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EPA-19-1101-G-000445
Bristol Bay/Pebble Mine 2019
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An official website of the United States government.

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

Close

News Releases from Region 10

EPA Administrator Scott Pruitt Suspends Withdrawal of Proposed Determination in Bristol Bay Watershed, Will Solicit Additional Comments

01/26/2018

Contact Information:
(press@epa.gov)

WASHINGTON (January 26, 2018) – Today, U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt is following through on his promise to restore the rule of law and process to the previous Administration's action to restrict mining in Bristol Bay, Alaska.

As a result of Administrator Pruitt's actions last summer, proponents of mining in the region were allowed to apply for a permit with the U.S. Army Corps of Engineers. Today, after hearing directly from stakeholders and the people of Alaska, EPA is suspending its process to withdraw those proposed restrictions, leaving them in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources.

"We have restored process, reviewed comments, and heard from a variety of stakeholders on whether to withdraw the proposed restrictions in the Bristol Bay watershed," **Administrator Scott Pruitt said.** "Based on that review, it is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there. Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection. Today's action allows EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources."

This decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project. The project proponents continue to enjoy the protection of due process and the right to proceed. However, their permit application must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable.

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EPA intends to solicit additional public comment on the impact of the mining application on the existing proposed determination to better inform that analysis.

Background

In 2014, the Obama Administration issued what was widely considered a preemptive veto of the Pebble Limited Partnership mining project. This effectively brought the mine's application process and, more importantly, due process to a halt. Litigation resulted and continued into this Administration.

In May of 2017, Administrator Pruitt took the first step to rescind this due process denial and allow the Pebble mine proponents to proceed and progress through the process. EPA received over one million comments from interested stakeholders. Administrator Pruitt's action allowed the litigation to be resolved and the proponent's application was allowed to finally move forward. That application is proceeding through the Army Corps's permitting process.

Today's action is important for several reasons. First, EPA has serious concerns about the impacts of mining activity in the Bristol Bay Watershed. From public comments to community meetings, stakeholders stressed the importance of balancing a singular mine venture with the risk to one of the world's largest commercial fisheries. Second, for EPA not to express an environmental position at this stage would be disingenuous.

This action demonstrates the Agency's commitment to both the rule of law and process, and upholding the EPA's core mission of environmental stewardship.

For more information and to read a copy of today's announcement in a pre-publication Federal Register Notice, visit: https://www.epa.gov/bristolbay.

LAST UPDATED ON JANUARY 26, 2018

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To: Allnutt, David[Allnutt.David@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]; Detwiler, Susan K.[detwiler.susan@epa.gov]; Fordham, Tami[Fordham.Tami@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Opalski, Dan[Opalski.Dan@epa.gov]; McGrath, Patricia[mcgrath.patricia@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Brown, Leah[Brown.Leah@epa.gov]; Castanon, Lisa[Castanon.Lisa@epa.gov]; Vaughan, Molly[Vaughan.Molly@epa.gov]; Herbst, John[herbst.john@epa.gov]; Wilson, Wenona[Wilson.Wenona@epa.gov]; Murphy, Stacy[Murphy.Stacy@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Tue 7/30/2019 7:53:19 PM (UTC)
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination
PLP Paragraph 3b Extension (2019-07-26).pdf

Attached is the Corps' response with a date stamp.

From: Allnutt, David
Sent: Tuesday, July 30, 2019 3:32 PM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

The website currently looks like this:

U.S. Army Corps of Engineers Review of Pebble Mine Permit Application

The U.S. Army Corps of Engineers is reviewing a Clean Water Act permit application from the Pebble Limited Partnership. The Corps issued a Draft Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) and a draft Clean Water Act Section 404 permit public notice for public comment in February 2019. **The public comment period closed July 1, 2019.** For more information, visit the Corps' Pebble Project EIS website. EXIT

- NEW EPA's letter to the Corps of Engineers regarding Clean Water Act 404(q)(PDF) (2 pp, 430 K) - July 26, 2019
- NEW Corps of Engineers' response to EPA's letter regarding Clean Water Act 404(q)(PDF) (1 pg, 193 K) - July 26, 2019
- EPA's comments on the Corps of Engineers' draft EIS - July 1, 2019
- EPA's comments on the Corps of Engineers' draft Section 404 permit - July 1, 2019

EPA's letter is date-stamped July 25, 2019. The Corps' response letter is undated.

R. David Allnutt, Acting Director
Superfund & Emergency Management Division
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155, 14-D12
Seattle, Washington 98101-3123
(206) 553-2581

From: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Sent: Tuesday, July 30, 2019 11:39 AM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona

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<Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Thanks, fixing now.

From: Hough, Palmer <Hough.Palmer@epa.gov>
Sent: Tuesday, July 30, 2019 11:33 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Suzanne – why are we calling EPA's July 25 letter to Army "EPA's Request to U.S. Army Corps for 90-day Extension Regarding Clean Water Act Section 404(q)". Our request letter makes no mention of a 90-day extension request.

-Palmer

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 2:23 PM
To: Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>
Subject: FW: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Sent to our regional Bristol Bay news media contacts list.

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 11:20 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Cc: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Good Morning:

Sharing today's news release from EPA's Headquarters office in Wash. DC. If you have any questions or need any more information about this announcement, please email press@epa.gov.

Link to a pre-publication notice of the withdrawal of the 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination:
https://www.epa.gov/bristolbay/notification-decision-withdraw-proposed-determination-restrict-use-area-disposal-site

Link to EPA and Corps of Engineers letters regarding the Pebble Mine Clean Water Act 404(q) permit review process:
https://www.epa.gov/bristolbay/epas-comments-us-army-corps-engineers-draft-section-404-permit

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Thank you,

Suzanne

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Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
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Like us on Facebook! @eparegion10

From: EPA Press Office <press@epa.gov>
Sent: Tuesday, July 30, 2019 1:53 PM
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) - Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

"After today's action EPA will focus on the permit review process for the Pebble Mine project," **said Region 10 Administrator Chris Hladick**. "The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014."

By withdrawing the 2014 Proposed Determination, which was issued preemptively and is now outdated, the agency can continue its focus on fulfilling its responsibilities under the Clean Water Act to work with the Army Corps to review the permit."

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process.

"Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**.

EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section

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404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

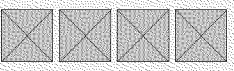
In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

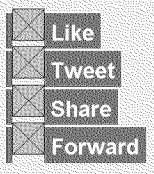
On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10

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Administrator, which will be published in the Federal Register.





U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

Unsubscribe

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From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]

Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Importance: High

Subject: Canceled: Bristol Bay Check-in

Start Time: Tue 8/28/2018 4:00:00 PM (UTC)

End Time: Tue 8/28/2018 5:00:00 PM (UTC)

Required Attendees: Anderson-Carnahan, Linda; Allnutt, David; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Mendelman, Krista; Stern, Allyn

Optional Attendees: Detwiler, Susan K.; Chu, Rebecca

Moving the bi-weekly Bristol Bay Check-in from Wednesdays to Tuesdays at 9:00 AM PST starting July 30th.

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)

Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

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Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 9/17/2018 5:49:25 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Mendelman, Krista [Mendelman.Krista@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-12Maple/R10-Rooms-Service-Center [R10Sea-Room-12Maple@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-12Maple/R10-Rooms-Service-Center

Start: 12/4/2018 5:00:00 PM
End: 12/4/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

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From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Tue 8/28/2018 4:00:00 PM (UTC)
End Time:	Tue 8/28/2018 5:00:00 PM (UTC)
Required Attendees:	Anderson-Carnahan, Linda; Allnutt, David; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Mendelman, Krista; Stern, Allyn
Optional Attendees:	Detwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 10/9/2018 2:47:08 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 10/9/2018 4:00:00 PM
End: 10/9/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Tue 9/11/2018 4:00:00 PM (UTC)
End Time:	Tue 9/11/2018 5:00:00 PM (UTC)
Required Attendees:	Fordham, Tami; Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Mendelman, Krista; Stern, Allyn
Optional Attendees:	Detwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Wed 11/7/2018 5:00:00 PM (UTC)
End Time:	Wed 11/7/2018 6:00:00 PM (UTC)
Required Attendees:	Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, AllynDetwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 7/11/2018 5:53:40 PM
To: Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Mendelman, Krista [Mendelman.Krista@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 8/1/2018 5:00:00 PM
End: 8/1/2018 5:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 10/23/2018 3:56:03 PM
To: Fordham, Tami [Fordham.Tami@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 10/23/2018 4:00:00 PM
End: 10/23/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 10/9/2018 2:47:57 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 10/9/2018 4:00:00 PM
End: 10/9/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 10/22/2018 10:37:38 PM
To: Fordham, Tami [Fordham.Tami@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 10/23/2018 4:00:00 PM
End: 10/23/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 10/1/2018 8:13:08 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

From:	Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Location:	R10Sea-Room-14Elwha/R10-Rooms-Service-Center
Importance:	High
Subject:	Canceled: Bristol Bay Check-in
Start Time:	Tue 9/25/2018 4:00:00 PM (UTC)
End Time:	Tue 9/25/2018 5:00:00 PM (UTC)
Required Attendees:	Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn
Optional Attendees:	Detwiler, Susan K.; Chu, Rebecca

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 9/18/2018 11:09:44 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Mendelman, Krista [Mendelman.Krista@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 9/25/2018 4:00:00 PM
End: 9/25/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 10/1/2018 7:58:03 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/7/2018 5:00:00 PM
End: 11/7/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Wednesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 6/12/2018 11:14:38 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Mendelman, Krista [Mendelman.Krista@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 2/6/2019 11:34:37 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 2/13/2019 8:00:00 PM
End: 2/13/2019 9:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 2/7/2019 5:56:57 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]
BCC: R10Sea-Room-11Camas-ORC-VTC/R10-Rooms-Restricted [R10Sea-Room-11Camas-ORC@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-11Camas-ORC-VTC/R10-Rooms-Restricted

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 2/8/2019 5:49:05 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

AMERICAN OVERSIGHT

Appointment

From: Nalven, Heidi [Nalven.Heidi@epa.gov]
Sent: 2/12/2019 1:58:06 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]

Subject: Accepted: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]
Cc: Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Padilla, Jocelyn B.[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FBEB53BCE88F41B58B76BAA1931FB2E6-PADILLA, JO]
Sent: Thur 8/15/2019 10:11:56 PM (UTC)
Subject: RE: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Erik,
Sorry but I don't have and not seen one.

Jocelyn

From: Peterson, Erik <Peterson.Erik@epa.gov>
Sent: Thursday, August 15, 2019 3:08 PM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Padilla, Jocelyn B. <padilla.jocelyn@epa.gov>
Subject: FW: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Hi Jocelyn, Ashley and Heidi,

Do any of you have a Word version of the attached signed PD withdrawal pdf?

FYI - We are saving associated documents in the following folder.

G:\Baker\ETPA\Bristol Bay\Bristol Bay Final Records_1035a\2. 404(c) Official Records_1035a\7.0 404(c)\7.5 Proposed Determination Withdrawal Proposal\Withdrawal FR Package

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Erik Peterson
U.S. EPA, Region 10
1200 Sixth Avenue, Suite #155
Mail Code: 14-D2
Seattle, Washington 98101-3188
(206) 553-6382

From: Gahner, Pamela <gahner.pamela@epa.gov>
Sent: Thursday, August 15, 2019 3:02 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>
Cc: Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>
Subject: RE: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Erik,

The ORA office wouldn't have a word document either, they are brought to us packaged and ready to sign. I don't see where we got a scan of the concurrence so I don't know who to ask except ARD since it's Air correct? Usually I do get a scan of the concurrence but I know this was a bit out of the ordinary.

Pam

From: Peterson, Erik <Peterson.Erik@epa.gov>
Sent: Thursday, August 15, 2019 2:52 PM
To: Gahner, Pamela <gahner.pamela@epa.gov>
Cc: Morgante, Louis J. <morgante.louis@epa.gov>; Washington, Audrey <Washington.Audrey@epa.gov>
Subject: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Hi Pam,

AMERICAN OVERSIGHT

James Morgante, Audrey Washington, myself and others are working toward publishing the attached notice in the Federal Register. We do not have a Word version of the signed pdf.

Could you send the Word version of this signed notice to us or let us know where it is saved?

If not, I'll contact Ashley Palomaki and Heidi Nalven.

Thank you!

Erik Peterson
U.S. EPA, Region 10
1200 Sixth Avenue, Suite #155
Mail Code: 14-D2
Seattle, Washington 98101-3188
(206) 553-6382

From: Stern, Allyn <Stern.Allyn@epa.gov>
Sent: Tuesday, July 30, 2019 8:48 AM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov
Begin forwarded message:

> **From:** "Gahner, Pamela" <gahner.pamela@epa.gov>
> **Date:** July 30, 2019 at 7:56:19 AM PDT
> **To:** "Stern, Allyn" <Stern.Allyn@epa.gov>
> **Cc:** "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
> **Subject: Signed this morning EPA-R10-OW-2017-0369**
>
> Signed this morning, please see attached.
> Sincerely,

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 11/16/2018 8:06:38 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/20/2018 5:00:00 PM
End: 11/20/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 11/5/2018 8:45:50 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/6/2018 5:00:00 PM
End: 11/6/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 12/14/2018 9:55:54 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Forsgren, Lee [Forsgren.Lee@epa.gov]
Sent: 3/1/2018 6:42:35 PM
To: Forsgren, Lee [Forsgren.Lee@epa.gov]; Hladick, Christopher [hladick.christopher@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Peterson, Erik [Peterson.Erik@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Goodin, John [Goodin.John@epa.gov]
CC: Holsman, Marianne [Holsman.Marianne@epa.gov]

Subject: Bristol Bay 404 (c) Post No-Withdrawal Comment period Options
Attachments: R10 ORA Meeting or Event Request Form.Bristol Bay 404c.docx; Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
Location: 3233 WJCE Call in Ex. 6 Personal Privacy (PP)

Start: 3/7/2018 9:00:00 PM
End: 3/7/2018 10:00:00 PM
Show Time As: Busy

This meeting is nontransferable.

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 6/12/2018 11:14:35 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Attachments: Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment; Untitled Attachment
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 7/31/2018 4:00:00 PM
End: 7/31/2018 5:00:00 PM
Show Time As: Busy

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Erik Peterson will email the agenda prior to the meeting.

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference I

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]
From: Hough, Palmer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51CD0B0D81AC416FA265944D6E6575CE-PHOUGH]
Sent: Wed 5/23/2018 3:16:42 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Call -- follow up info

Thank you!!

From: Skadowski, Suzanne
Sent: Wednesday, May 23, 2018 11:13 AM
To: Peterson, Erik ; Steiner-Riley, Cara ; Nalven, Heidi ; Wehling, Carrie ; Palomaki, Ashley ; Bennett, Brittany ; Whitley, Annie ; Hough, Palmer
Subject: RE: Bristol Bay 404(c) Team Call -- follow up info

Murkowski statements re Pebble PD withdrawal:

Murkowski Reacts to EPA's Pebble Announcement

"Administrator Pruitt is taking a balanced approach by allowing Pebble to enter the permitting process, while noting EPA's duty to fully protect the region's world-class fisheries," Murkowski said. "With the company now having filed its application, I expect that a fair, rigorous, and transparent process will soon begin so that Alaskans can understand the impacts and risks, as well as the potential benefits associated with this project." Murkowski, the Chairman of the Energy and Natural Resources Committee, worked with EPA to extend the comment period on its proposed withdrawal by 90 days. This was necessary to ensure that all Alaskan stakeholders, including commercial fishermen, would have an opportunity to weigh in.

EPA admin's Pebble decision surprised Murkowski, she says

Environmental Protection Agency Administrator Scott Pruitt took a left turn on the proposed Pebble mine last month. If you were surprised, then you're not alone. U.S. Sen. Lisa Murkowski was, too. Pruitt announced a decision to keep alive a proposal from the Obama administration to protect the headwaters of Bristol Bay, a proposal Murkowski and other Republicans had complained was egregious federal overreach.

Murkowski got the news from Pruitt, just before the public announcement. "I was just generally surprised. I think part of it is because the administrator has typically taken an approach that less reg – I don't want to say less regulation," Murkowski said, pausing to choose her words carefully. "He has been more favorably inclined to find paths forward where there have been regulatory impediments placed."

Murkowski has not taken a position for or against the mine. But she was highly critical when President Barack Obama's EPA proposed restrictions on Pebble, prohibiting it from damaging more than five miles of fish streams, among other limits. Murkowski called that a "pre-emptive veto." Pebble had not yet applied for its permits. Murkowski said what the Trump administration has done is different. "The action that they took does not halt Pebble's application," Murkowski said. "It says that they may continue through that process. That's the difference."

But Obama's EPA administrator said her action wasn't blocking Pebble's application, either. "If the company is ready for permit application, they're still free to submit that, and we'd encourage that," then-administrator Gina McCarthy said at a 2014 hearing, answering questions from Murkowski. Pebble did not file its application until late last year. Murkowski said Pruitt wants a credible process and has set a high bar for Pebble to meet.

Governor Walker's statements:

Walker speaks out against Pebble Mine as company announces new mine plan

"I am not supportive of the Pebble Mine," Walker told Alaska Public ... Lisa Murkowski's office, the senator "is not willing to trade salmon for gold.

In reversal, EPA deals setback to controversial gold mining proposal in Alaska

In a statement released by the EPA, Gov. Bill Walker (I) thanked the agency "for listening to my input, as well as the input of thousands of Alaskans who oppose rescinding" the Obama-era assessment. Walker said he had discussed the mine repeatedly with Pruitt, "and I have shared with him my belief that in the Bristol Bay region we should prioritize the resource that has sustained generations and must continue to do so in perpetuity."

From: Peterson, Erik
Sent: Monday, May 14, 2018 1:19 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Wake, Neverley <wake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) Team Call - 5/15

Hello BB 404(c) Team,

I propose we cancel the BB 404(c) team call for tomorrow, 5/15. Please let me know if you have something pressing and think we

AMERICAN OVERSIGHT

need to meet.
A few updates:

- Heidi and Ashley working on PLP response, will send to Palmer, Brittany and Erik for review prior to sending to Allnutt and Carrie Wehling. Plan to discuss on 5/22 before Allnutt Check-in.

- Reminder to document external meetings using our sharepoint at: External Meetings SharePoint Link.

Draft agenda items for 5/22 Tuesday call. Please send any additional items by COB EST 5/21.

- FOIA

- PLP response

- HAC QFR

- Congressional letter

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Bennett, Brittany[bennett.brittany@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Skadowski, Suzanne[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1713ED42E6E244BC9FCD783D4A8D39AB-SKADOWSKI, SUZANNE]
Sent: Tue 5/8/2018 7:51:08 PM (UTC)
Subject: RE: FYI - Congressional Western Caucus Statement

https://westerncaucus.house.gov/uploadedfiles/5-3_pebble_final_signed.pdf

Suzanne Skadowski
Public Affairs | Media Relations Specialist
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 5 Deliberative Process (DP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Bennett, Brittany
Sent: Tuesday, May 8, 2018 12:48 PM
To: Peterson, Erik ; Steiner-Riley, Cara ; Nalven, Heidi ; Wehling, Carrie ; Palomaki, Ashley ; Ortiz, Michael ; Skadowski, Suzanne ; Lindsay, Andrea ; Whitley, Annie ; Wake, Neverley ; Hough, Palmer ; Herbst, John
Subject: FYI - Congressional Western Caucus Statement

https://westerncaucus.house.gov/news/documentsingle.aspx?DocumentID=1508

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

-----Original Appointment-----
From: Peterson, Erik
Sent: Monday, April 23, 2018 3:04 PM
To: Peterson, Erik; Steiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Ortiz, Michael; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Wake, Neverley; Hough, Palmer; Herbst, John
Subject: Bristol Bay 404(c) Team Call
When: Tuesday, May 08, 2018 12:30 PM-1:30 PM (UTC-08:00) Pacific Time (US & Canada).
Where: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Bennett, Brittany[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3D7B265C202C467791CA4D4AC6B8DB8B-BENNETT, BR]
Sent: Tue 5/8/2018 7:51:19 PM (UTC)
Subject: RE: FYI - Congressional Western Caucus Statement

Here is the PDF of the letter, which was embedded in the text of the online statement.
https://westerncaucus.house.gov/uploadedfiles/5-3_pebble_final_signed.pdf

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Bennett, Brittany
Sent: Tuesday, May 08, 2018 3:48 PM
To: Peterson, Erik ; Steiner-Riley, Cara ; Nalven, Heidi ; Wehling, Carrie ; Palomaki, Ashley ; Ortiz, Michael ; Skadowski, Suzanne ; Lindsay, Andrea ; Whitley, Annie ; Wake, Neverley ; Hough, Palmer ; Herbst, John
Subject: FYI - Congressional Western Caucus Statement
https://westerncaucus.house.gov/news/documentsingle.aspx?DocumentID=1508

Brittany K. Bennett
Ecologist
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Sent: Monday, April 23, 2018 3:04 PM
To: Peterson, Erik; Steiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Ortiz, Michael; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Wake, Neverley; Hough, Palmer; Herbst, John
Subject: Bristol Bay 404(c) Team Call
When: Tuesday, May 08, 2018 12:30 PM-1:30 PM (UTC-08:00) Pacific Time (US & Canada).
Where: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Fordham, Tami[Fordham.Tami@epa.gov]
Cc: Peterson, Erik[Peterson.Erik@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Tue 5/8/2018 8:03:52 PM (UTC)
Subject: FW: Congressional Western Caucus letter re Pebble

FYI – Letter requests withdrawal of the PD.

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, ORC-113
Seattle, WA 98101
206-553-8582

From: Skadowski, Suzanne
Sent: Tuesday, May 08, 2018 12:51 PM
To: Peterson, Erik ; Wehling, Carrie ; Hough, Palmer ; Palomaki, Ashley
Cc: Nalven, Heidi ; Allnutt, David
Subject: Congressional Western Caucus letter re Pebble

https://westerncaucus.house.gov/uploadedfiles/5-3_pebble_final_signed.pdf

Suzanne Skadowski
Public Affairs | Media Relations Specialist
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

AMERICAN OVERSIGHT

To: Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Brown, Leah[Brown.Leah@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; McGrath, Patricia[mcgrath.patricia@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]
From: Stern, Allyn[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2E2D6F5DF08D4E9ABBFF2C0880407775-STERN, ALLYN]
Sent: Tue 7/30/2019 3:47:46 PM (UTC)
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369
image003.png
ATT00001.htm
07302019 EPA-R10-OW-2017-0369 Notice to Withdraw Pebble Deposit Area, SW Alaska.pdf
ATT00002.htm

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

Begin forwarded message:

From: "Gahner, Pamela" <gahner.pamela@epa.gov>
Date: July 30, 2019 at 7:56:19 AM PDT
To: "Stern, Allyn" <Stern.Allyn@epa.gov>
Cc: "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
Subject: Signed this morning EPA-R10-OW-2017-0369

Signed this morning, please see attached.
Sincerely,

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Padilla, Jocelyn B.[padilla.jocelyn@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Thur 8/15/2019 10:49:34 PM (UTC)
Subject: RE: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Hi Erik – I have it. I will put it in that folder.

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, M/S 11-C07
Seattle, WA 98101
206-553-8582

From: Peterson, Erik <Peterson.Erik@epa.gov>
Sent: Thursday, August 15, 2019 3:08 PM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Padilla, Jocelyn B. <padilla.jocelyn@epa.gov>
Subject: FW: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Hi Jocelyn, Ashley and Heidi,

Do any of you have a Word version of the attached signed PD withdrawal pdf?

FYI - We are saving associated documents in the following folder.

G:\Baker\ETPA\Bristol Bay\Bristol Bay Final Records_1035a\2. 404(c) Official Records_1035a\7.0 404(c)\7.5 Proposed Determination Withdrawal Proposal\Withdrawal FR Package

Erik Peterson
U.S. EPA, Region 10
1200 Sixth Avenue, Suite #155
Mail Code: 14-D2
Seattle, Washington 98101-3188
(206) 553-6382

From: Gahner, Pamela <gahner.pamela@epa.gov>
Sent: Thursday, August 15, 2019 3:02 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>
Cc: Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>
Subject: RE: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Erik,

The ORA office wouldn't have a word document either, they are brought to us packaged and ready to sign. I don't see where we got a scan of the concurrence so I don't know who to ask except ARD since it's Air correct? Usually I do get a scan of the concurrence but I know this was a bit out of the ordinary.

Pam

From: Peterson, Erik <Peterson.Erik@epa.gov>
Sent: Thursday, August 15, 2019 2:52 PM
To: Gahner, Pamela <gahner.pamela@epa.gov>
Cc: Morgante, Louis J. <morgante.louis@epa.gov>; Washington, Audrey <Washington.Audrey@epa.gov>
Subject: Word Version of "Signed this morning EPA-R10-OW-2017-0369"?

Hi Pam,

James Morgante, Audrey Washington, myself and others are working toward publishing the attached notice in the Federal Register. We do not have a Word version of the signed pdf.

Could you send the Word version of this signed notice to us or let us know where it is saved?

If not, I'll contact Ashley Palomaki and Heidi Nalven.

Thank you!

Erik Peterson
U.S. EPA, Region 10
1200 Sixth Avenue, Suite #155
Mail Code: 14-D2
Seattle, Washington 98101-3188
(206) 553-6382

AMERICAN OVERSIGHT

From: Stern, Allyn <Stern.Allyn@epa.gov>
Sent: Tuesday, July 30, 2019 8:48 AM
To: Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

Begin forwarded message:

> **From:** "Gahner, Pamela" <gahner.pamela@epa.gov>
> **Date:** July 30, 2019 at 7:56:19 AM PDT
> **To:** "Stern, Allyn" <Stern.Allyn@epa.gov>
> **Cc:** "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
> **Subject: Signed this morning EPA-R10-OW-2017-0369**
>
> Signed this morning, please see attached.
> Sincerely,
>
> ____

AMERICAN OVERSIGHT

To: Tallent, Robert[Tallent.Robert@epa.gov]; Brown, DonaldM[Brown.DonaldM@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Elleman, Robert[Elleman.Robert@epa.gov]; Allnutt, David[Allnutt.David@epa.gov]; WigginsLewis, Miriam[WigginsLewis.Miriam@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Frazer, Brian[Frazer.Brian@epa.gov]; Kaiser, Russell[Kaiser.Russell@epa.gov]; Frithsen, Jeff[Frithsen.Jeff@epa.gov]; VanDrunick, Suzanne[vanDrunick.Suzanne@epa.gov]; Schofield, Kate[Schofield.Kate@epa.gov]; Bahadori, Tina[Bahadori.Tina@epa.gov]; Sheppard, Tracy[Sheppard.Tracy@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Kirby, Kevin[KIRBY.KEVIN@EPA.GOV]
From: Hough, Palmer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51CD0B0D81AC416FA265944D6E6575CE-PHOUGH]
Sent: Wed 5/1/2019 5:10:23 PM (UTC)
Subject: RE: RFC 19001 Scoping Team Meeting agenda
key issues_RFC19001_responses_working_050119.docx

Folks
Sorry for the delay in getting this to you, attached is the latest version of the draft response. We have flagged a few issues with comment bubbles to discuss during today's call.
The first page includes some notes for the cover letter based on our last call, the rest of the document is the draft "appendix" that will include our responses to the 7 issues raised by CEI.
There is also some extra material at the end that we are just saving there in case we need it.
We look forward to talking with you today.
Kate and Palmer

From: Tallent, Robert
Sent: Wednesday, May 01, 2019 7:11 AM
To: Brown, DonaldM <Brown.DonaldM@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Elleman, Robert <Elleman.Robert@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; WigginsLewis, Miriam <WigginsLewis.Miriam@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Frithsen, Jeff <Frithsen.Jeff@epa.gov>; VanDrunick, Suzanne <vanDrunick.Suzanne@epa.gov>; Schofield, Kate <Schofield.Kate@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>; Sheppard, Tracy <Sheppard.Tracy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kirby, Kevin <KIRBY.KEVIN@EPA.GOV>
Subject: RFC 19001 Scoping Team Meeting agenda
Good morning All,
Please find attached the agenda for this afternoon's Scoping Team meeting for RFC 19001 – Bristol Bay.
Kevin and I are looking forward to a very interesting meeting for this most important topic.
Thanks for all you do!
Bob

Robert G. Tallent, D.Sc., PMP
US Environmental Protection Agency
Office of Mission Support
Office of Enterprise Information Programs
Enterprise Quality Management Division (2811T)
WJC West, 6340F
1200 Pennsylvania Ave., NW (MC-2811T)
Washington, DC 20460
Phone: 202 564-6809
tallent.robert@epa.gov
Life is either a daring adventure…or nothing. H. Keller

AMERICAN OVERSIGHT

To: Tallent, Robert[Tallent.Robert@epa.gov]; Brown, DonaldM[Brown.DonaldM@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Elleman, Robert[Elleman.Robert@epa.gov]; Allnutt, David[Allnutt.David@epa.gov]; WigginsLewis, Miriam[WigginsLewis.Miriam@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Frithsen, Jeff[Frithsen.Jeff@epa.gov]; vanDrunick, Suzanne[vanDrunick.Suzanne@epa.gov]; Schofield, Kate[Schofield.Kate@epa.gov]; Bahadori, Tina[Bahadori.Tina@epa.gov]; Sheppard, Tracy[Sheppard.Tracy@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Kirby, Kevin[KIRBY.KEVIN@EPA.GOV]
From: Hough, Palmer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51CD0B0D81AC416FA265944D6E6575CE-PHOUGH]
Sent: Tue 3/12/2019 4:39:04 PM (UTC)
Subject: RE: RFC 19001 Scoping Team meeting
key issues_RFC19001_responses_3-12-19.docx
RFC 20181114 Bristol Bay (003) - .pdf

Folks
At our last meeting Kate and I agreed to:

1. Develop a list of the issues raised by CEI in its Nov 2018 RfC letter (attached)
2. Develop a few sample responses to these issues

Attached please find the draft issue list, including a few sample responses (big kudos to Kate). During tomorrow's meeting we would like your feedback on both the issues list and the level of detail in our sample responses.
Thanks, Kate and Palmer
-----Original Appointment-----
From: Tallent, Robert
Sent: Wednesday, February 27, 2019 10:46 AM
To: Tallent, Robert; Brown, DonaldM; Palomaki, Ashley; Peterson, Erik; Elleman, Robert; Allnutt, David; WigginsLewis, Miriam; Goodin, John; Hough, Palmer; Frithsen, Jeff; vanDrunick, Suzanne; Schofield, Kate; Bahadori, Tina; Sheppard, Tracy; Nalven, Heidi; Wehling, Carrie; Kirby, Kevin
Subject: RFC 19001 Scoping Team meeting
When: Wednesday, March 13, 2019 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC West Room 6340K
Hello Everyone
We would like to continue our work on the RFC 19001 concerning the Bristol Bay Watershed.
The meeting will be held in WJC West Room 6340K if you are in the DC area.
Otherwise the call in number is: Ex. 6 Personal Privacy (PP)
Conference code is Ex. 6 Personal Privacy (PP)
Thanks for all you do!
Bob Tallent
EQMD

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To: Allnutt, David[Allnutt.David@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]; Detwiler, Susan K.[detwiler.susan@epa.gov]; Fordham, Tami[Fordham.Tami@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Opalski, Dan[Opalski.Dan@epa.gov]; McGrath, Patricia[mcgrath.patricia@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Brown, Leah[Brown.Leah@epa.gov]; Castanon, Lisa[Castanon.Lisa@epa.gov]; Vaughan, Molly[Vaughan.Molly@epa.gov]; Herbst, John[herbst.john@epa.gov]; Wilson, Wenona[Wilson.Wenona@epa.gov]; Murphy, Stacy[Murphy.Stacy@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Tue 7/30/2019 7:53:19 PM (UTC)
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination
PLP Paragraph 3b Extension (2019-07-26).pdf

Attached is the Corps' response with a date stamp.

From: Allnutt, David
Sent: Tuesday, July 30, 2019 3:32 PM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination
The website currently looks like this:

U.S. Army Corps of Engineers Review of Pebble Mine Permit Application

The U.S. Army Corps of Engineers is reviewing a Clean Water Act permit application from the Pebble Limited Partnership. The Corps issued a Draft Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) and a draft Clean Water Act Section 404 permit public notice for public comment in February 2019. **The public comment period closed July 1, 2019.** For more information, visit the Corps' Pebble Project EIS website. EXIT

- NEW EPA's letter to the Corps of Engineers regarding Clean Water Act 404(q)(PDF) (2 pp, 430 K) - July 26, 2019
- NEW Corps of Engineers' response to EPA's letter regarding Clean Water Act 404(q)(PDF) (1 pg, 193 K) - July 26, 2019
- EPA's comments on the Corps of Engineers' draft EIS - July 1, 2019
- EPA's comments on the Corps of Engineers' draft Section 404 permit - July 1, 2019

EPA's letter is date-stamped July 25, 2019. The Corps' response letter is undated.

R. David Allnutt, Acting Director
Superfund & Emergency Management Division
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155, 14-D12
Seattle, Washington 98101-3123
(206) 553-2581

From: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Sent: Tuesday, July 30, 2019 11:39 AM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination
Thanks, fixing now.

From: Hough, Palmer <Hough.Palmer@epa.gov>
Sent: Tuesday, July 30, 2019 11:33 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa

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<Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Suzanne – why are we calling EPA's July 25 letter to Army "EPA's Request to U.S. Army Corps for 90-day Extension Regarding Clean Water Act Section 404(q)". Our request letter makes no mention of a 90-day extension request.

-Palmer

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 2:23 PM
To: Holsman, Marianne <Holsman.Marianne@epa.gov>; Detwiler, Susan K. <detwiler.susan@epa.gov>; Fordham, Tami <Fordham.Tami@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>; Castanon, Lisa <Castanon.Lisa@epa.gov>; Vaughan, Molly <Vaughan.Molly@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>; Wilson, Wenona <Wilson.Wenona@epa.gov>; Murphy, Stacy <Murphy.Stacy@epa.gov>
Subject: FW: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Sent to our regional Bristol Bay news media contacts list.

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 11:20 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Cc: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Subject: EPA withdraws 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination

Good Morning:

Sharing today's news release from EPA's Headquarters office in Wash. DC. If you have any questions or need any more information about this announcement, please email press@epa.gov.

Link to a pre-publication notice of the withdrawal of the 2014 Pebble Mine Clean Water Act 404(c) Proposed Determination:
https://www.epa.gov/bristolbay/notification-decision-withdraw-proposed-determination-restrict-use-area-disposal-site

Link to EPA and Corps of Engineers letters regarding the Pebble Mine Clean Water Act 404(q) permit review process:
https://www.epa.gov/bristolbay/epas-comments-us-army-corps-engineers-draft-section-404-permit

Thank you,
Suzanne

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: EPA Press Office <press@epa.gov>
Sent: Tuesday, July 30, 2019 1:53 PM
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) - Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

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"After today's action EPA will focus on the permit review process for the Pebble Mine project," **said Region 10 Administrator Chris Hladick**. "The agency has worked closely with the Army Corps to engage with stakeholders and the public on this issue, which has resulted in an expansive public record, including specific information about the proposed mining project that did not exist in 2014."

By withdrawing the 2014 Proposed Determination, which was issued preemptively and is now outdated, the agency can continue its focus on fulfilling its responsibilities under the Clean Water Act to work with the Army Corps to review the permit."

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process.

"Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**.

EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional

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public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

<image001.png>

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

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To: Nalven, Heidi[Nalven.Heidi@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Tue 7/30/2019 4:21:07 PM (UTC)
Subject: FW: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, M/S 11-C07
Seattle, WA 98101
206-553-8582

From: Skadowski, Suzanne
Sent: Tuesday, July 30, 2019 9:11 AM
To: Abboud, Michael <abboud.michael@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: RE: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview
Importance: High

Thank you Michael. Adding our team here. We will share with Chris asap.

Suzanne Skadowski
Public Affairs Specialist | Media Relations
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C: Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Abboud, Michael <abboud.michael@epa.gov>
Sent: Tuesday, July 30, 2019 9:08 AM
To: Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; McFaul, Jessica <mcfaul.jessica@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: FW: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

Suzanne this is final from HQ. Only thing that needs to get confirmed is Chris' quote. Plan to send from Region 10 at 11am pacific time.

From: EPA Press Office <press@epa.gov>
Sent: Tuesday, July 30, 2019 12:07 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Subject: EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site - Preview

---

EPA Withdraws Outdated, Preemptive Proposed Determination to Restrict Use of the Pebble Deposit Area as a Disposal Site

SEATTLE (July 30, 2019) - Today, U.S. Environmental Protection Agency (EPA) Region 10 Administrator Chris Hladick withdrew the 2014 Proposed Determination issued under section 404(c) of the Clean Water Act (CWA) for the use of the Pebble Deposit Area in Southwest Alaska as a disposal site associated with mining of the deposit.

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Today's action does not approve Pebble's permit application or determine a particular outcome in the Corps' permitting process. Instead, it allows EPA to continue working with the Corps to review the current permit application and engage in the National Environmental Policy Act (NEPA) process. "Region 10's decision restores the proper process for 404(c) determinations, eliminating a preemptive veto of a hypothetical mine and focusing EPA's environmental review on an actual project before the Agency," **EPA General Counsel Matthew Z. Leopold**. EPA Region 10 provided the Corps with detailed comments to its Draft Environmental Impact Statement (DEIS) and permit notice on July 1, 2019, and EPA looks forward to continuing its work with the Corps and the other cooperating agencies on the next steps in the permit review process.

Additional information: https://www.epa.gov/bristolbay.

Background

In July 2014, EPA Region 10 issued a Proposed Determination under CWA section 404(c) to restrict the use of the Pebble Deposit Area as a disposal site for dredged or fill material associated with mining the deposit. The Proposed Determination was based on three hypothetical scenarios for the mine site, each of which was different than the permit application submitted to the Corps for review in December 2017. Since 2014, there have been significant developments, including a lawsuit challenging the EPA's process for developing the 2014 Proposed Determination and a related settlement, the permit application submitted by Pebble to the Corps, additional direction from the former EPA Administrator in January 2018, and a 1,400-page Draft Environmental Impact Statement (DEIS) and permit notice issued by the Corps.

In July 2017, EPA Region 10 published a proposal to withdraw the 2014 Proposed Determination. The notice opened a three-month-long public comment period, during which the EPA held two public hearings in the watershed area and consulted with federally recognized tribal governments and Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the watershed. In December 2017, PLP submitted a CWA section 404 permit application to the Corps that proposes to develop a mine in the Pebble Deposit Area. The Corps then invited relevant federal and state agencies, including the EPA, to cooperate on the development of the DEIS under NEPA. The Corps released a DEIS for public comment in February 2019; this public comment period closed on July 1, 2019.

In January 2018, EPA announced that it was suspending the withdrawal proceeding and leaving the 2014 Proposed Determination in place at that time pending further action by the Agency.

In June 2019, EPA General Counsel Matthew Z. Leopold, acting pursuant to a delegation of authority from the EPA Administrator, directed Region 10 to resume its consideration whether to withdraw the 2014 Proposed Determination. He also directed the Region to reconsider its previous statement that it would seek additional public comment on the 2014 Proposed Determination, in light of the ample opportunity for public comment previously provided and the public comment opportunity on the DEIS and permit notice.

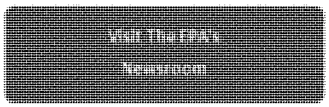
On July 1, 2019, Region 10 submitted to the Corps two sets of comments, totaling more than 150 pages, regarding the Corps' DEIS and permit notice. The Region also took the first step under the elevation procedures established between the EPA and the Army in a 1992 memorandum to work towards resolving issues EPA identified in the permit notice.

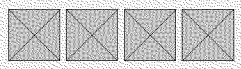
This action removes the Agency's outdated, preemptive proposed veto of the Pebble Mine and restores the well-understood permit review process. EPA Region 10 reached this conclusion based on two primary reasons. First, the Corps' DEIS includes significant project-specific information that was not accounted for in the 2014 Proposed Determination and, based on that information, the Corps has reached preliminary conclusions that in certain respects conflict with preliminary conclusions in the 2014 Proposed Determination. The now-five-year-old Proposed Determination does not grapple with the currently available expansive record, including specific information about the proposed mining project that did not exist in 2014. Second, other processes are available and better-suited for EPA to resolve issues with the Corps as the record develops; specifically, the well-understood elevation process under CWA section 404(q) and the NEPA process. EPA believes these processes should be exhausted prior to any decision by

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EPA, based upon all information that has and will be developed, to exercise its section 404(c) authority. A detailed explanation of EPA's decision is available in the notice signed today by EPA's Region 10 Administrator, which will be published in the Federal Register.

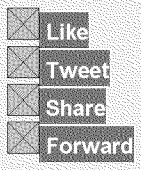
https://usenvironmentalprotectionagency.cmail19.com/t/d-i-pudtra-l-y/





U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

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Appointment

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Sent: 7/2/2019 11:12:59 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Tomiak, Robert [tomiak.robert@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Barnhart, Megan [Barnhart.Megan@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; LaCroix, Matthew [LaCroix.Matthew@epa.gov]; Szerlog, Michael [Szerlog.Michael@epa.gov]; Hoppe, Allison [hoppe.allison@epa.gov]; Schaedle, Candi [Schaedle.Candi@epa.gov]; Marshall, Tom [marshall.tom@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Opalski, Dan [Opalski.Dan@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]; DCRoomWest7129/DC-CCW-OWOW [DCRoomWest7129@epa.gov]

Subject: Bristol Bay Career Leadership Bi-Weekly Check-in
Attachments: RFC 19001 interim 062019.pdf
Location: On the phone

Start: 7/3/2019 5:30:00 PM
End: 7/3/2019 6:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Wednesday from 10:30 AM to 11:30 AM

Agenda

NEPA/Permitting
- 404q

Pebble 404c Leopold Memo – Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional reorganization briefing

Press

RFC (see attached)

Correspondence plan

FOIA

CMS

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Conference I Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
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BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Attachments: Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx; BB Correspondence Plan 2019_V2.docx
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 6/25/2019 7:30:00 PM
End: 6/25/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Topics

Correspondence Plan (attached)

RFC

404c options for additional public comment

Correspondence plan

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→ Meeting Organizer

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From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
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BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

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End: 6/25/2019 8:30:00 PM
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Topics

Correspondence Plan (draft to be attached)

RFC

404c options for additional public comment

Correspondence plan

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BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Attachments: Pebble-Bristol Bay 404(c)_Options for additional public comment_3-2-18_final.docx
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End: 6/11/2019 8:30:00 PM
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Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

June 10th Policy Briefing

RFC

404c options for additional public comment

Correspondence plan

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→ Meeting Organizer

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BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 3/19/2019 7:30:00 PM
End: 3/19/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

NEPA/Permitting and 404c

Competitive Enterprise Institute Request for Correction

3/12/19 Briefing for Scientific Integrity Official Francesca Grifo

CMS
- AK State Senate and PLP response status

FOIA
- McKeever
- Trustee for Alaska

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BCC: R10Sea-Room-11Camas-ORC-VTC/R10-Rooms-Restricted [R10Sea-Room-11Camas-ORC@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-11Camas-ORC-VTC/R10-Rooms-Restricted

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End: 2/12/2019 9:30:00 PM
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Normal day and time.

Agenda

Bristol Bay Leadership Update
- Timing and content

Request for Correction
- Report out on 2/6 scoping meeting

CMS
- PLP
- AK State Senate
- Allen
- Others?

FOIA
- McKeever
- Trustees

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BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 2/13/2019 8:00:00 PM
End: 2/13/2019 9:00:00 PM
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Would like to move this to Wednesday due to a conflict.

Agenda

Bristol Bay Leadership Update
- Timing and content

Request for Correction
- Report out on 2/6 scoping meeting

CMS
- PLP
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- Allen
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- McKeever
- Trustees

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BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Tentative

Recurrence: Weekly
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Agenda

Bristol Bay NEPA and 404 Leadership Update

CMS
- AK State Senate Leaders
- Pebble Limited Partnership
- Thomas Allen

Request for Correction or Withdrawal
- Scoping meeting

Press
- McClatchy

FOIA
- Trustees
- McKeever

Website update

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Sent: 2/8/2019 5:49:05 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

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Agenda

Bristol Bay Leadership Update
- Timing and content

Request for Correction
- Report out on 2/6 scoping meeting

CMS
- PLP
- AK State Senate
- Allen
- Others?

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- McKeever
- Trustees

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Conference ID:

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Erik Peterson, USEPA (206) 553-6382 office

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To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Proposed Agenda – let Erik know if you have suggestions

Permit Oversight/ NEPA Review Team

NEPA Preliminary EIS Comments

Public Notice

PLP's draft Compensatory Mitigation Plan

404(c) Team

Hladick and Forsgren 12/12 Briefing

Bristol Bay NEPA and 404 Leadership Update for January 2019

CMS Pebble Limited Partnership

FOIA

Request for Correction or Withdrawal

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AMERICAN OVERSIGHT

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

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Sent: 12/14/2018 9:15:09 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Proposed Agenda – let Erik know if you have suggestions

Permit Oversight/ NEPA Review Team

NEPA Preliminary EIS Comments

404(c) Team

Hladick and Forsgren 12/12 Briefing

Bristol Bay NEPA and 404 Leadership Update for January 2019

CMS Pebble Limited Partnership

FOIA

Request for Correction or Withdrawal

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 12/11/2018 6:27:39 PM
To: Wake, Neverley [wake.neverley@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call

Start: 12/11/2018 8:30:00 PM
End: 12/11/2018 9:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Hello Bristol Bay 404c Team,

I'd like to meet on 12/11.

Proposed Agenda

NEPA Preliminary EIS Comments

Plan for Hladick and Forsgren Briefing – 12/12

FOIA

Request for Correction or Withdrawal

CMS: BBNC, Thomas Allen, PLP

External Meeting

→ Join by Phone

Toll number: (Ex. 6 Personal Privacy (PP))
Conference ID

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 12/3/2018 6:43:03 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 12/4/2018 5:00:00 PM
End: 12/4/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

NEPA preliminary EIS comments

Briefing

FOIA

Information Quality Act Request for Correction or Withdrawal

404c rulemaking

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 11/16/2018 8:06:38 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/20/2018 5:00:00 PM
End: 11/20/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

Permit Oversight/ NEPA Review Team

Preliminary EIS review

404(c) Team

NEPA/404c coordination

Competitive Enterprise Institute Information Quality Act Request for Correction or Withdrawal Regarding Bristol Bay Watershed Assessment

FOIA

- E&E News (011614)
- McKeever FOIA Lawsuit
- Trustees for Alaska 2 (0135)
- HQ FOIA Role

Congressional correspondence

- Western Caucus (Gosar et al) – Forsgren signed final sent 9/16/18
- Lamar Smith – nearly identical Forsgren signed final sent 10/18/18
- DeFazio and Carper – in process

June 2018 memo on 404c regulation revisions

External meeting

- 11/14/18 Forsgren, PLP and other BB stakeholders

AMERICAN OVERSIGHT

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 11/16/2018 8:03:49 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/20/2018 5:00:00 PM
End: 11/20/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

Permit Oversight/ NEPA Review Team

Preliminary EIS review

404(c) Team

NEPA/404c coordination

Competitive Enterprise Institute Information Quality Act Request for Correction or Withdrawal Regarding Bristol Bay Watershed Assessment

FOIA

- E&E News (011614)
- McKeaver FOIA Lawsuit
- Trustees for Alaska 2 (0135)
- HQ FOIA Role

Congressional correspondence

- Western Caucus (Gosar et al) – Forsgren signed final sent 9/16/18
- Lamar Smith – nearly identical Forsgren signed final sent 10/18/18
- DeFazio and Carper – in process

June 2018 memo on 404c regulation revisions

External meeting

- 11/14/18 Forsgren, PLP and other BB stakeholders

AMERICAN OVERSIGHT

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]

Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Importance: High

Subject: Canceled: Bristol Bay Check-in

Start Time: Tue 9/25/2018 4:00:00 PM (UTC)

End Time: Tue 9/25/2018 5:00:00 PM (UTC)

Required Attendees: Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn

Optional Attendees: Detwiler, Susan K.; Chu, Rebecca

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID:
Code: 74080

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 9/18/2018 11:09:44 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Mendelman, Krista [Mendelman.Krista@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]
BCC: R10Sea-Room-14Elwha/R10-Rooms-Service-Center [R10Sea-Room-14Elwha@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 9/25/2018 4:00:00 PM
End: 9/25/2018 5:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

Permit Oversight/ NEPA Review Team

Scoping Document

Preliminary EIS review

Alternatives

Site Visits

Schedule

404(c) Team

FOIA

Litigation hold

Representative DeFazio and Senator Carper letter response

Conservative group letter to EPA

External Meetings

External Correspondence

AMERICAN OVERSIGHT

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID:
Code: 74080

Local numbers: Seattle Ex. 6 Personal Privacy (PP), Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Shoemake, Neverley[shoemake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Fri 5/25/2018 11:57:12 PM (UTC)
Subject: Bristol Bay 404(c) Team Call - 5/29/18

Hello BB 404(c) Team,

I propose we cancel the BB 404(c) team call 5/29. Please let me know if you have something pressing and think we need to meet.

A few updates:

- Some ongoing discussion regarding the HAC QFR, primarily in OGC

- Please send edits or comments on the Western Caucus Draft Response by **5/30**. See Brittany's 5/24 email for more information.

Draft agenda items for 6/5 Tuesday call. Please send any agenda input by **June 1st** if possible. (I am out 6/4-6/8 and am aiming to support Tuesday call and Allnutt check-in as best I can prior to leaving.)

- FOIA

- Project update

- PLP response

- Western Caucus Response

- HAC QFR

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

From: Peterson, Erik
Sent: Monday, May 14, 2018 1:19 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Ortiz, Michael <Ortiz.Michael@epa.gov>; Skadowski, Suzanne <Skadowski.Suzanne@epa.gov>; Lindsay, Andrea <Lindsay.Andrea@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>; Shoemake, Neverley <shoemake.neverley@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Herbst, John <herbst.john@epa.gov>
Subject: Bristol Bay 404(c) Team Call - 5/15

Hello BB 404(c) Team,

AMERICAN OVERSIGHT

I propose we cancel the BB 404(c) team call for tomorrow, 5/15. Please let me know if you have something pressing and think we need to meet.

A few updates:

- Heidi and Ashley working on PLP response, will send to Palmer, Brittany and Erik for review prior to sending to Allnutt and Carrie Wehling. Plan to discuss on 5/22 before Allnutt Check-in.

- Reminder to document external meetings using our sharepoint at: External Meetings SharePoint Link.

Draft agenda items for 5/22 Tuesday call. Please send any additional items by COB EST 5/21.

- FOIA

- PLP response

- HAC QFR

- Congressional letter

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]; Ortiz, Michael[Ortiz.Michael@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Whitley, Annie[Whitley.Annie@epa.gov]; Shoemake, Neverley[shoemake.neverley@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Herbst, John[herbst.john@epa.gov]
From: Peterson, Erik[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: Mon 5/21/2018 8:22:16 PM (UTC)
Subject: RE: Bristol Bay 404(c) Team Call - 5/22

Hello BB 404(c) Team,

Draft agenda items for 5/22 Tuesday call. Please send any additional items by COB EST 5/21.

- FOIA
- PLP response
- Congressional letter
- HAC QFR
- FYI Correspondence

Erik Peterson, NEPA Reviewer
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-6382

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 7/16/2019 7:00:40 PM
To: Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]; Gude, Karen [Gude.Karen@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: on the phone only

Start: 7/16/2019 8:00:00 PM
End: 7/16/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

404c

- Leopold memo: Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional Realignment and Bristol Bay

→ Join by Phone

Toll number
Conference Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 7/15/2019 10:46:16 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Tomiak, Robert [tomiak.robert@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]; Detwiler, Susan K. [detwiler.susan@epa.gov]; Barnhart, Megan [Barnhart.Megan@epa.gov]; Kaiser, Russell [Kaiser.Russell@epa.gov]; Frazer, Brian [Frazer.Brian@epa.gov]; LaCroix, Matthew [LaCroix.Matthew@epa.gov]; Szerlog, Michael [Szerlog.Michael@epa.gov]; Hoppe, Allison [hoppe.allison@epa.gov]; Schaedle, Candi [Schaedle.Candi@epa.gov]; Marshall, Tom [marshall.tom@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Opalski, Dan [Opalski.Dan@epa.gov]; Chung, Angela [Chung.Angela@epa.gov]; Grandinetti, Cami [Grandinetti.Cami@epa.gov]; Baca, Andrew [Baca.Andrew@epa.gov]
CC: Castanon, Lisa [Castanon.Lisa@epa.gov]
BCC: R10Sea-Room-13Heron/R10-Rooms-Service-Center [R10Sea-Room-13Heron@epa.gov]

Subject: Bristol Bay Career Leadership Bi-Weekly Check-in
Location: R10Sea-Room-13Heron/R10-Rooms-Service-Center; DCRoomWest7129

Start: 7/17/2019 5:30:00 PM
End: 7/17/2019 6:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Wednesday from 10:30 AM to 11:30 AM

Draft Agenda

NEPA/404
- 404q

404c
- Leopold memo Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional Realignment and Bristol Bay

→ Join by Phone
Toll number: Ex. 6 Personal Privacy (PP)
Conference ID:

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer
Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 7/8/2019 11:42:35 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]
BCC: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center [R10Sea-Room-14WallaWalla@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 7/9/2019 7:30:00 PM
End: 7/9/2019 8:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Agenda

Pebble 404c Leopold Memo – Resuming consideration of the withdrawal of the July 2014 Proposed Determination to restrict use of the Pebble Deposit Area as disposal site

Regional realignment transition

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Schwab, Justin[Schwab.Justin@epa.gov]
From: Feeley, Drew (Robert)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ABAE82AA36DA4D3383EAE19A8EFA683C-FEELEY, ROB]
Sent: Wed 6/27/2018 6:14:55 PM (UTC)
Subject: Fwd: Most recent letter with HQ comments
Pebble Project Scoping 060518 draft HQ Review.docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Knight, Kelly" <knight.kelly@epa.gov>
Date: June 27, 2018 at 11:14:29 AM EDT
To: "Tomiak, Robert" <tomiak.robert@epa.gov>, "Feeley, Drew (Robert)" <Feeley.Drew@epa.gov>
Subject: FW: Most recent letter with HQ comments

This is the most recent version with HQ comments.

From: Barnhart, Megan
Sent: Wednesday, June 27, 2018 10:46 AM
To: Knight, Kelly <knight.kelly@epa.gov>
Subject: Most recent letter with HQ comments

……
Megan Barnhart
U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Division
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Phone: 202-564-5936

AMERICAN OVERSIGHT

To: Schwab, Justin[Schwab.Justin@epa.gov]
From: Hoppe, Allison[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=HOPPE, ALLISON]
Sent: Wed 6/13/2018 8:28:26 PM (UTC)
Subject: Alaska docs from reg review
DF edits to Pebble Project Scoping 060518 draft.docx
NorthSlopeOptions_6-8-18 (002).docx

Justin,

These are the two Alaska documents we discussed at the end of reg review today. No action is required on your part on these at this time, just sharing for awareness.

Thanks,

Allison Hoppe
Attorney Advisor
American Indian & Alaska Native Special Emphasis Program Manager
Cross-Cutting Issues Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-1912

I am an EPA LGBTQ+ Ally. Learn more and take the pledge here.
Pronouns: She/Her/Hers

AMERICAN OVERSIGHT

To: Hoppe, Allison[hoppe.allison@epa.gov]
From: Schwab, Justin[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: Wed 6/13/2018 9:48:16 PM (UTC)
Subject: Re: Alaska docs from reg review

Thank you. Do you have any sense of how quickly these will be moving forward?

Sent from my iPhone

On Jun 13, 2018, at 4:28 PM, Hoppe, Allison <hoppe.allison@epa.gov> wrote:

> Justin,
>
> These are the two Alaska documents we discussed at the end of reg review today. No action is required on your part on these at this time, just sharing for awareness.
>
> Thanks,
>
> Allison Hoppe
> Attorney Advisor
> American Indian & Alaska Native Special Emphasis Program Manager
> Cross-Cutting Issues Law Office
> Office of General Counsel
> U.S. Environmental Protection Agency
> (202) 564-1912
>
> I am an EPA LGBTQ+ Ally. Learn more and take the pledge here.
> Pronouns: She/Her/Hers
>
> <DF edits to Pebble Project Scoping 060518 draft.docx>
>
> <NorthSlopeOptions_6-8-18 (002).docx>

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 1/28/2019 11:55:40 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 1/29/2019 5:00:00 PM
End: 1/29/2019 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

NEPA/Permit Oversight

NEPA Preliminary EIS Comments

Public Notice

Compensatory Mitigation Plan

Plan for compiling comments on the DEIS, including leveraging ORD expertise

404c

Bristol Bay NEPA and 404 Leadership Update

Media inquiry McClatchy – DDL 1/31

CMS Pebble Limited Partnership

FOIA

Request for Correction or Withdrawal

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

→ **Meeting Organizer**

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

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To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

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Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

→ **Meeting Organizer**

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Fotouhi, David[Fotouhi.David@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
From: Stern.Allyn@epa.gov[Stern.Allyn@epa.gov]
Sent: Wed 5/8/2019 5:09:17 PM (UTC)
Subject: Re: Bristol Bay Delegation

Excellent. Thanks!

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

> On May 8, 2019, at 9:40 AM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:
>
> Yes, please see attached.
>
> David Fotouhi
>
> Principal Deputy General Counsel
> Office of General Counsel
> U.S. Environmental Protection Agency
> Tel: +1 202.564.1976
> fotouhi.david@epa.gov
>
> -----Original Message-----
> From: Stern, Allyn
> Sent: Wednesday, May 8, 2019 11:59 AM
> To: Fotouhi, David <Fotouhi.David@epa.gov>
> Cc: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
> Subject: Bristol Bay Delegation
>
> Hi David-
>
> Do you have a copy of the signed delegation of 404(c) authority to Matt? We never received the final version and think it would be good to have that prior to Matt's visit in June. We're prepping potential Q&As and since the delegation was reported in the news, it's definitely possible we may get questions about the scope of Matt's role in the decision making.
>
> Allyn Stern
> Regional Counsel
> US EPA Region 10
> 206-553-1223
> stern.allyn@epa.gov
> <Signed Delagation of Authority Pebble DA.pdf>

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/14/2018 9:15:12 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 1/28/2019 11:48:23 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

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From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 1/28/2019 11:48:23 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 1/29/2019 5:00:00 PM
End: 1/29/2019 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

AMERICAN OVERSIGHT

To: Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Brown, Leah[Brown.Leah@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Peterson, Erik[Peterson.Erik@epa.gov]; McGrath, Patricia[mcgrath.patricia@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Skadowski, Suzanne[Skadowski.Suzanne@epa.gov]; Holsman, Marianne[Holsman.Marianne@epa.gov]
From: Stern.Allyn@epa.gov[Stern.Allyn@epa.gov]
Sent: Tue 7/30/2019 3:47:43 PM (UTC)
Subject: Fwd: Signed this morning EPA-R10-OW-2017-0369
image003.png
ATT00001.htm
07302019 EPA-R10-OW-2017-0369 Notice to Withdraw Pebble Deposit Area, SW Alaska.pdf
ATT00002.htm

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

Begin forwarded message:

From: "Gahner, Pamela" <gahner.pamela@epa.gov>
Date: July 30, 2019 at 7:56:19 AM PDT
To: "Stern, Allyn" <Stern.Allyn@epa.gov>
Cc: "Hladick, Christopher" <hladick.christopher@epa.gov>, "Pirzadeh, Michelle" <Pirzadeh.Michelle@epa.gov>, "Holsman, Marianne" <Holsman.Marianne@epa.gov>
Subject: Signed this morning EPA-R10-OW-2017-0369

Signed this morning, please see attached.

Sincerely,

AMERICAN OVERSIGHT

To: Willey, Katharine[willey.katharine@epa.gov]
From: Stern.Allyn@epa.gov[Stern.Allyn@epa.gov]
Sent: Mon 7/29/2019 3:04:21 PM (UTC)
Subject: Re: Bristol Bay Check-in

Yes. I'm free at 11-11:30 or 12-1 Pacific time. Also invite Ashley Palomaki and Suzanne Skadowski.

Allyn Stern
Regional Counsel
US EPA Region 10
206-553-1223
stern.allyn@epa.gov

> On Jul 29, 2019, at 7:37 AM, Willey, Katharine <willey.katharine@epa.gov> wrote:
>
> Allyn—are you (& any team members you think appropriate) available for a check-in today on the roll out?

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/14/2018 9:15:12 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Proposed Agenda – let Erik know if you have suggestions

Permit Oversight/ NEPA Review Team

NEPA Preliminary EIS Comments

Public Notice

PLP's draft Compensatory Mitigation Plan

404(c) Team

Hladick and Forsgren 12/12 Briefing

Bristol Bay NEPA and 404 Leadership Update for January 2019

CMS Pebble Limited Partnership

FOIA

Request for Correction or Withdrawal

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/3/2018 6:43:07 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 12/4/2018 5:00:00 PM
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every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

NEPA preliminary EIS comments

Briefing

FOIA

Information Quality Act Request for Correction or Withdrawal

404c rulemaking

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Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0ECBA75A9F9448D3980A693951129E64-PETERSON, ERIK]
Sent: 11/16/2018 8:06:38 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David; Anderson-Carnahan, Linda; McGrath, Patricia; Palomaki, Ashley; Steiner-Riley, Cara; Lindsay, Andrea; Skadowski, Suzanne; Nogi, Jill; Douglas, Mark; Vaughan, Molly; Hough, Palmer; Nalven, Heidi; Fordham, Tami; Stern, Allyn
CC: Detwiler, Susan K.; Chu, Rebecca

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/20/2018 5:00:00 PM
End: 11/20/2018 6:00:00 PM
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Agenda

Permit Oversight/ NEPA Review Team

Preliminary EIS review

404(c) Team

NEPA/404c coordination

Competitive Enterprise Institute Information Quality Act Request for Correction or Withdrawal Regarding Bristol Bay Watershed Assessment

FOIA

- E&E News (011614)
- McKeever FOIA Lawsuit
- Trustees for Alaska 2 (0135)
- HQ FOIA Role

Congressional correspondence

- Western Caucus (Gosar et al) – Forsgren signed final sent 9/16/18
- Lamar Smith – nearly identical Forsgren signed final sent 10/18/18
- DeFazio and Carper – in process

June 2018 memo on 404c regulation revisions

External meeting

- 11/14/18 Forsgren, PLP and other BB stakeholders

→ Join by Phone

Toll number: [redacted]
Conference ID: [redacted] Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

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Sent: 1/28/2019 11:48:23 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]

Subject: Bristol Bay Check-in
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FOIA

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Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP), Anchorage Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

→ **Meeting Organizer**

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/3/2018 6:43:03 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

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Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Stern, Allyn[Stern.Allyn@epa.gov]; Palomaki, Ashley[Palomaki.Ashley@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Steiner-Riley, Cara[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0BEF7D04F2E64E4B8B90235A30CC7109-STEINER-RILEY, CARA]
Sent: Wed 5/2/2018 3:10:26 PM (UTC)
Subject: Fwd: Letter to Administrator from Pebble re 404c
20180425125804.PDF
ATT00001.htm

See David's request below. I do think Ex. 5 AC/DP Thanks.

Sent from my iPhone

Begin forwarded message:

From: "Allnutt, David" <Allnutt.David@epa.gov>
To: "Steiner-Riley, Cara" <Steiner-Riley.Cara@epa.gov>
Subject: FW: Letter to Administrator from Pebble re 404c

Ex. 5 AC/DP

R. David Allnutt, Director
Office of Environmental Review and Assessment
U.S. EPA, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101-3140
(206) 553-2581

From: Palomaki, Ashley
Sent: Wednesday, April 25, 2018 12:03 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Stern, Allyn <Stern.Allyn@epa.gov>; Mendelman, Krista <Mendelman.Krista@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Hough, Palmer <Hough.Palmer@epa.gov>
Subject: Letter to Administrator from Pebble re 404c

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, ORC-113
Seattle, WA 98101
206-553-8582

From: Wehling, Carrie
Sent: Wednesday, April 25, 2018 11:51 AM

AMERICAN OVERSIGHT

To: Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: Heads up re Letter to the Administrator

Heidi – looks like something for our weekly next week, if not sooner.
No specific to-do.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Fotouhi, David
Sent: Wednesday, April 25, 2018 2:00 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: FW: Letter to the Administrator

Please see attached. I'd like to discuss sometime next week (or will let you know if we need to discuss sooner).
Thanks!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Jackson, Ryan
Sent: Wednesday, April 25, 2018 1:55 PM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Letter to the Administrator

From: Peter Robertson [mailto:peterrobertson@pebblepartnership.com]
Sent: Wednesday, April 25, 2018 1:34 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Letter to the Administrator

Ryan,

Guess I should have actually attached the letter before I hit send.

Peter

AMERICAN OVERSIGHT

From: Peter Robertson
Sent: Wednesday, April 25, 2018 1:31:27 PM
To: jackson.ryan@epa.gov
Subject: Letter to the Administrator

Ryan,

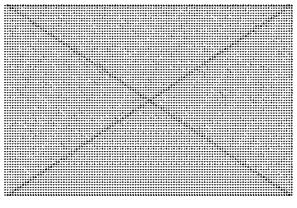
I'm attaching a letter to Administrator Pruitt to this email. I would appreciate it if you could bring this to his attention. He spoke a couple of weeks ago to a group of conservative organizations. During that meeting, he was asked about the Pebble preemptive veto. His answers were conveyed to us, and this letter reacts to some of the things he said.

One of the things he said was that he was willing to hear new information about Pebble. This letter contains information which the Administrator clearly has not heard before. It also contains a request to meet with him so that we can discuss these matters in greater detail. Anything you can do to help facilitate such a meeting would, of course, be greatly appreciated.

Look forward to hearing from you.

Best,

Peter



Peter D. Robertson

The Pebble Partnership

1330 Connecticut Avenue, NW

Washington, DC 20036

202-629-3392

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 11/16/2018 8:06:38 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 11/20/2018 5:00:00 PM
End: 11/20/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Agenda

Permit Oversight/ NEPA Review Team

Preliminary EIS review

404(c) Team

NEPA/404c coordination

Competitive Enterprise Institute Information Quality Act Request for Correction or Withdrawal Regarding Bristol Bay Watershed Assessment

FOIA

- E&E News (011614)
- McKeever FOIA Lawsuit
- Trustees for Alaska 2 (0135)
- HQ FOIA Role

Congressional correspondence

- Western Caucus (Gosar et al) – Forsgren signed final sent 9/16/18
- Lamar Smith – nearly identical Forsgren signed final sent 10/18/18
- DeFazio and Carper – in process

June 2018 memo on 404c regulation revisions

External meeting

- 11/14/18 Forsgren, PLP and other BB stakeholders

→ Join by Phone
Toll number: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Steiner-Riley, Cara[Steiner-Riley.Cara@epa.gov]; Stern, Allyn[Stern.Allyn@epa.gov]; Lindsay, Andrea[Lindsay.Andrea@epa.gov]; Wake, Neverley[wake.neverley@epa.gov]; Fordham, Tami[Fordham.Tami@epa.gov]
Cc: Peterson, Erik[Peterson.Erik@epa.gov]; Hough, Palmer[Hough.Palmer@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Bennett, Brittany[bennett.brittany@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Tue 5/8/2018 8:03:52 PM (UTC)
Subject: FW: Congressional Western Caucus letter re Pebble

FYI – Letter requests withdrawal of the PD.

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, ORC-113
Seattle, WA 98101
206-553-8582

From: Skadowski, Suzanne
Sent: Tuesday, May 08, 2018 12:51 PM
To: Peterson, Erik <Peterson.Erik@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>
Cc: Nalven, Heidi <Nalven.Heidi@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>
Subject: Congressional Western Caucus letter re Pebble

https://westerncaucus.house.gov/uploadedfiles/5-3_pebble_final_signed.pdf

Suzanne Skadowski
Public Affairs | Media Relations Specialist
U.S. Environmental Protection Agency
Region 10 Pacific Northwest - Seattle
O: 206-553-2160 C Ex. 6 Personal Privacy (PP)
Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 11/16/2018 8:03:49 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Chu, Rebecca [Chu.Rebecca@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

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- E&E News (011614)
- McKeaver FOIA Lawsuit
- Trustees for Alaska 2 (0135)
- HQ FOIA Role

Congressional correspondence

- Western Caucus (Gosar et al) – Forsgren signed final sent 9/16/18
- Lamar Smith – nearly identical Forsgren signed final sent 10/18/18
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June 2018 memo on 404c regulation revisions

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→ Join by Phone
Toll number: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
Cc: Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Cody, Meredith[cody.meredith@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
From: Wehling.Carrie@epa.gov[Wehling.Carrie@epa.gov]
Sent: Tue 5/28/2019 1:22:07 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

Works for me. Thanks.

Sent from my iPhone

On May 28, 2019, at 9:17 AM, Neugeboren, Steven <Neugeboren.Steven@epa.gov> wrote:

I agree that since Matt decided OW should sign response to RFC it would make sense for them to respond to this as needed. Adding David.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Wehling, Carrie
Sent: Monday, May 27, 2019 9:37 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

This issue is a bit different since it's not generally about Pebble but about a Request for Correction. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Stachowiak, Robert
Sent: Friday, May 24, 2019 3:42 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: FW: RFC 19001-Bristol Bay

WLO folks – Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Sincerely,

AMERICAN OVERSIGHT

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel

CC: EPA/OGC/Water Law Office

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Leopold, Matt (OGC)
Sent: Friday, May 24, 2019 3:30 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Subject: Fwd: RFC 19001-Bristol Bay

Another inquiry.

Sent from my iPhone
Begin forwarded message:

From: Tim Stephens < Ex. 6 Personal Privacy (PP) >
Date: May 24, 2019 at 2:54:26 PM EDT
To: Quality@epa.gov
Cc: leopold.matthew@epa.gov
Subject: Re: RFC 19001-Bristol Bay

Typo *RFC was filed 11.15.2018*.

Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens < Ex. 6 Personal Privacy (PP) > wrote:
-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses)
Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens < Ex. 6 Personal Privacy (PP) wrote:
Kindly following up.

Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens < Ex. 6 Personal Privacy (PP) > wrote:
Hello,

AMERICAN OVERSIGHT

As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

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-Tim S

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-Tim S

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-Tim S

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-Tim S

AMERICAN OVERSIGHT

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

June 20, 2019

OFFICE OF MISSION SUPPORT

Ben Lieberman
Competitive Enterprise Institute
1310 L Street, NW 7th Floor
Washington, DC 20005

Dear Mr. Lieberman:

This letter is to provide you with a status update to your Request for Correction (RFC #19001) received by the U.S. Environmental Protection Agency (EPA) on November 14, 2018. In your RFC, you cite concerns about the quality of the 2014 Bristol Bay Watershed Assessment. The issues you raised are still under consideration by the EPA and relate to ongoing processes.

Sincerely,

Vincia Holloman

Vincia Holloman, Director
Enterprise Quality Management Division
Office of Enterprise Information Programs

AMERICAN OVERSIGHT

To: Quality[Quality@epa.gov]
From: Victor Stewart Ex. 6 Personal Privacy (PP)
Sent: Tue 7/16/2019 2:27:40 PM (UTC)
Subject: Re: RFC 19001 - Bristol Bay

Following up a 5th time on timeline question. Thanks.

On Monday, July 15, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

Following up a 4th time on my timeline question. Thanks

On Friday, July 12, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

Following up a third time on my timeline question. Thanks.

On Thursday, July 11, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

Following up on my timeline question. Thanks

On Wednesday, July 10, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

Thank you for your message but I don't see a timeline in either the letter dated June 20 or the response. According to information quality guidelines, isn't the letter to the requestor supposed to provide a time estimate for the next response or update? Thanks much.
Victor

On Wednesday, July 10, 2019, Quality <Quality@epa.gov> wrote:

Mr. Stewart,

Thank you for your interest in a request submitted to the Agency in conformance with the EPA Information Quality Guidelines (IQGs). This IQG request, RFC #19001, status has not changed since our response to you one week ago.

Thank for your interest in the quality of information at EPA.

For Vincia Holloman, Director

U.S. Environmental Protection Agency

Office of Mission Support

Office of Enterprise Information Programs

Enterprise Quality Management Division

From: Victor Stewart Ex. 6 Personal Privacy (PP)
Sent: Wednesday, July 10, 2019 8:37 AM
To: Quality <Quality@epa.gov>
Subject: Re: RFC 19001 - Bristol Bay

Third follow up on the below. Thank you in advance for your response.

On Tuesday, July 9, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

Following up a second time. Thanks

On Monday, July 8, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

AMERICAN OVERSIGHT

Following up. Thanks

On Wednesday, July 3, 2019, Victor Stewart Ex. 6 Personal Privacy (PP) wrote:

Thank you for your message. CEI, the original requestor, published on Monday a letter response it sent back to EPA demanding a response immediately and indicated it would not agree to another extension. Please advise on timing of response given CEI demand letter.

On Wednesday, July 3, 2019, Quality <Quality@epa.gov> wrote:

Mr. Stewart,

Thank you for your interest in a request submitted to the Agency in conformance with the EPA Information Quality Guidelines (IQGs). This IQG request, RFC #19001, is presently under consideration by EPA subject matter experts.

A status update was communicated to the requester 06/20/2019. A copy of the response or interim status was posted to the EPA public website tracking requests for correction submitted to EPA after the response target date.

Request information is linked from this page:

EPA Information Quality Guidelines - Requests for Correction and Requests for Reconsideration Submitted to EPA

Interim response document is here:

EPA Interim Response to RFC 19001; issued 6/20/2019

Thank for your interest in the quality of information at EPA.

For Vincia Holloman, Director

U.S. Environmental Protection Agency

Office of Mission Support

Office of Enterprise Information Programs

Enterprise Quality Management Division

https://www.epa.gov/quality

From: Victor Stewart Ex. 6 Personal Privacy (PP)
Sent: Monday, June 24, 2019 11:19 AM
To: Quality <Quality@epa.gov>
Subject: Re: RFC 19001 - Bristol Bay

Hello,

Can you please advise current status of RFC 19001? I understand 6/21/19 was the deadline to provide a response or an update on the status of the response.

Thank you,

Victor Stewart

On Monday, May 20, 2019, Quality <Quality@epa.gov> wrote:

Dear Mr. Stewart,

AMERICAN OVERSIGHT

Thank you for your inquiry into an active Request for Correction, filed with the EPA under the Information Quality Guidelines.

This case, RFC #19001 dealing with the Bristol Bat Watershed Assessment is still under consideration.

Due to the complexity of this request, an interim response has been provided to the requester. This projects a revised target date for response to June 21, 2019. All correspondence to the requester is posted on EPA's website.

Thank you for your attention to quality!

EPA Quality Staff

From: Victor Stewart [Ex. 6 Personal Privacy (PP)]
Sent: Monday, May 20, 2019 1:00 PM
To: Quality <Quality@epa.gov>
Subject: Re: RFC 19001 - Bristol Bay

Following up 5th time. Thanks.

On Tuesday, May 14, 2019, Victor Stewart [Ex. 6 Personal Privacy (PP)] wrote:

Following up for the 4th time.

On Thursday, May 9, 2019, Victor Stewart [Ex. 6 Personal Privacy (PP)] wrote:

Following up a third time. Thanks.

On Tuesday, May 7, 2019, Victor Stewart [Ex. 6 Personal Privacy (PP)] wrote:

Following up on the below inquiry. Thanks

On Thursday, May 2, 2019, Victor Stewart [Ex. 6 Personal Privacy (PP)] wrote:

Thank you for the message. I read through the attachment and it indicates that there should be a date by which a decision is expected on the RFC. Can you please advise on the expected decision date for the Pebble RFC?

On Wednesday, May 1, 2019, Quality <Quality@epa.gov> wrote:

Thank you for your inquiry into an active Request for Correction submitted to the Environmental Protection Agency. This request is being administered in accordance with EPA's information quality Guidelines. Subject matter experts are currently reviewing the details of the request and the existing science that underpins EPA's disseminated information. When EPA responds to this request, it will be posted on EPA's website. For further information on the *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by the Environmental Protection Agency*, please see https://www.epa.gov/sites/production/files/2017-03/documents/epa-info-quality-guidelines.pdf. Again, thank you for your attention to quality!

EPA Quality Staff

From: Victor Stewart [Ex. 6 Personal Privacy (PP)]
Sent: Tuesday, April 23, 2019 4:32 PM
To: Quality <Quality@epa.gov>
Subject: Re: RFC 19001 - Bristol Bay

Following up for a third time. A response would be appreciated.

AMERICAN OVERSIGHT

On Wednesday, April 17, 2019, Victor Stewart <Ex. 6 Personal Privacy (PP)> wrote:

Following up on the below.

On Thursday, April 4, 2019, Victor Stewart <Ex. 6 Personal Privacy (PP)> wrote:

Good morning,

What is the timeline by which EPA expects to respond to this RFC? Thanks in advance for your response.

Victor

AMERICAN OVERSIGHT

To: Quality[Quality@epa.gov]
From: Ex. 6 Personal Privacy (PP) /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3C79BDFB1BDD42C99A0785AC28FF10BB-TBURKESTEPH]
Sent: Tue 7/16/2019 5:40:02 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

I notice there is no deadline in the 2nd (yet another deadline missed) interim response. Maybe there needs to be FOIA filed to get to the bottom of this conundrum.

On Wed, Jun 19, 2019 at 10:27 AM Tim Stephens < Ex. 6 Personal Privacy (PP) wrote:

Thank you for the response and insight Connie, it is much appreciated. Have a great week.

On Wed, Jun 19, 2019 at 10:00 AM Quality <Quality@epa.gov> wrote:

Mr. Stephens,

There are federal and agency requirements for processing a PDF to post it to the Internet – that processing can change properties information.

The delay in posting was an unintentional deviation from our normal process of posting within a few business days of communicating it to the requestor.

As there is not substantive information conveyed in interim responses due to the ongoing consideration, the administrative mangers of the Information Quality Guidelines response process are considering substituting an alternative to posting the PDF–that provides information at a glance for interested parties and streamlines web content.

Thank you for the interest in the quality of information disseminated by the agency.

Connie F. Thoma

U.S. Environmental Protection Agency

Office of Mission Support

Environmental Information's Office of Enterprise Information Programs

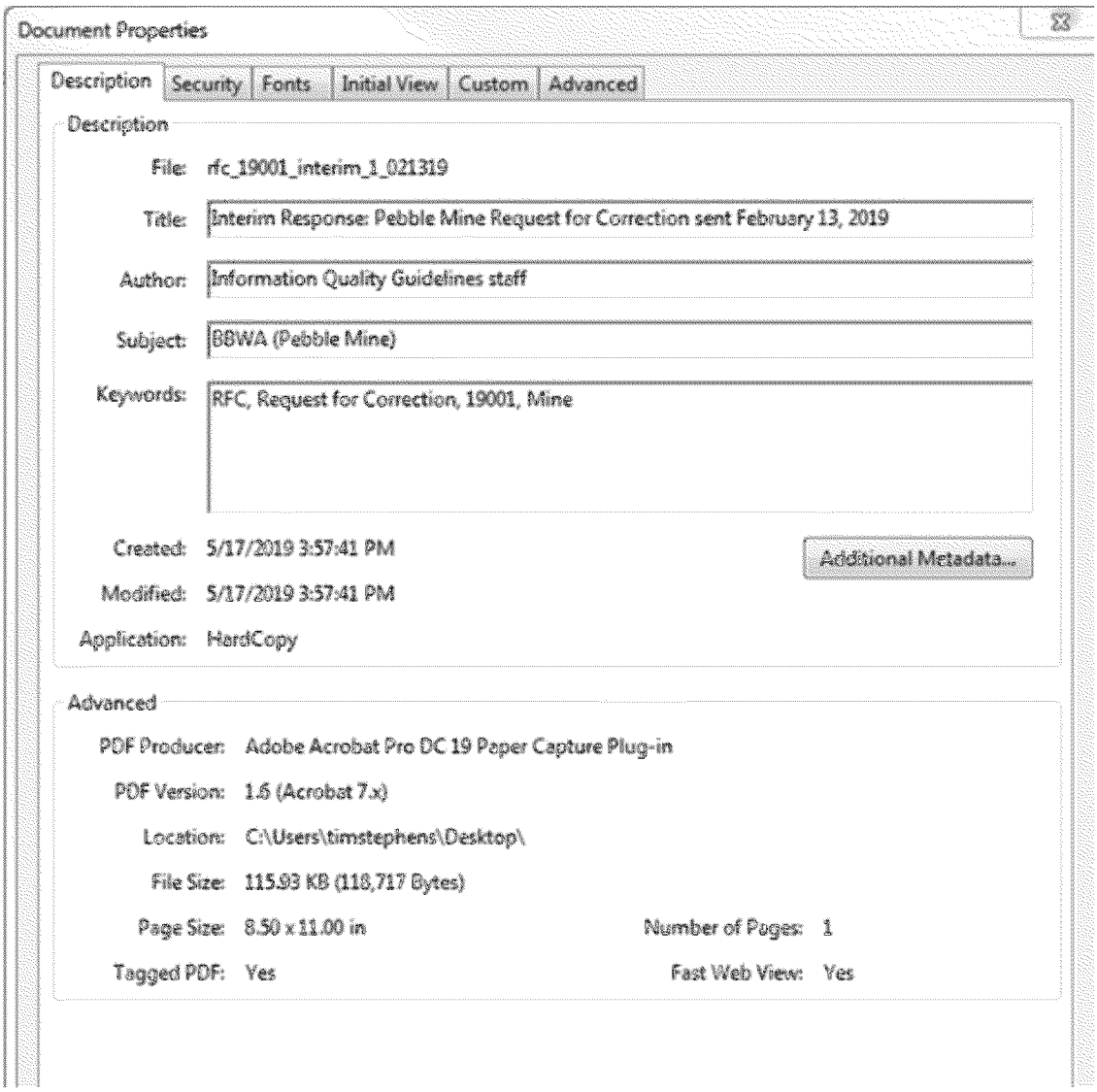
Enterprise Quality Management Division

https://www.epa.gov/quality

From: Tim Stephens Ex. 6 Personal Privacy (PP)
Sent: Monday, June 17, 2019 4:49 PM
To: Quality <Quality@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: RFC 19001-Bristol Bay

PDF properties show this PDF wasn't even created until 5.17.2019. Again, when there is a response will there be another 3 month delay for it to be published?

AMERICAN OVERSIGHT



On Thu, Jun 6, 2019 at 1:02 PM Tim Stephens **Ex. 6 Personal Privacy (PP)** wrote:

Would appreciate a response.

Thank you.

On Tue, Jun 4, 2019 at 3:34 PM Tim Stephens **Ex. 6 Personal Privacy (PP)** wrote:

Respectfully following up.

On Fri, May 24, 2019 at 1:54 PM Tim Stephens **Ex. 6 Personal Privacy (PP)** wrote:

Typo *RFC was filed 11.15.2018*.

Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens **Ex. 6 Personal Privacy (PP)** wrote:

-The RFC was filed 11.15.2019.

-Follow up letter was sent to Administrator Wheeler 3.20.2019

-The EPA published a response on 5.20.2019.

-The interim response letter is dated 2.13.2019.

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly

AMERICAN OVERSIGHT

from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses)

Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens **Ex. 6 Personal Privacy (PP)** wrote:

Kindly following up.

Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens **Ex. 6 Personal Privacy (PP)** wrote:

Hello,

As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

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-Tim S

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-Tim S

AMERICAN OVERSIGHT

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-Tim S

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-Tim S

AMERICAN OVERSIGHT

To: Quality[Quality@epa.gov]; Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Thomas Allen[thomas@markeallenlaw.com]
Sent: Tue 7/16/2019 12:40:17 PM (UTC)
Subject: RFC 19001

Where is the response?! You've had enough time, enough with the shenanigans and make a decision.

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com
Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT

Appointment

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/25/2019 1:44:41 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]

Subject: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Tentative

AMERICAN OVERSIGHT

Appointment

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/25/2019 1:44:41 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]

Subject: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

To: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Fri 5/11/2018 1:18:42 PM (UTC)
Subject: RE: HAC QFR - Bristol Bay / 404(c) Draft Responses
House IE FY 2019 EPA QFRs_OWCD.docx

See attached per discussion.

From: Eisenberg, Mindy
Sent: Thursday, May 10, 2018 6:31 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: RE: HAC QFR - Bristol Bay / 404(c) Draft Responses

Hi All,
Thanks so much for your quick turnaround on these QFRs. I did some trimming back to keep the responses a little shorter and targeted. I am sending you what I'm sending to John for review.

Thanks,
Mindy

Mindy Eisenberg
Associate Director, Oceans, Wetlands & Communities Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4504T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 10, 2018 5:49 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: HAC QFR - Bristol Bay / 404(c) Draft Responses

Mindy,

Attached is a draft response to questions 28-32 for the Appropriations QFR. This response has been reviewed by OGC, ORC, and HQ 404 program staff.

Ex. 5 Deliberative Process (DP)

Please let us know if you need anything else for this response,

Brittany

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water

AMERICAN OVERSIGHT

ph: 202.564.1896
Bennett.Brittany@epa.gov

AMERICAN OVERSIGHT

To: Holsman, Marianne[Holsman.Marianne@epa.gov]; Risley, David[Risley.David@epa.gov]; Hackel, Angela[Hackel.Angela@epa.gov]; Abboud, Michael[abboud.michael@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]
Cc: Fotouhi, David[fotouhi.david@epa.gov]; Messier, Dawn[Messier.Dawn@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Steven Neugeboren[Neugeboren.Steven@epa.gov]
From: Wehling, Carrie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: Tue 7/30/2019 8:03:26 PM (UTC)
Subject: RE: Pebble Mine- Press Inquires

Our understanding is that Katharine is the OGC point person on press inquiries related to Pebble Mine. Heidi and I are happy to assist as need be.
Katharine, please let us know what you need from us; we are standing by.
Thanks.
Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Holsman, Marianne
Sent: Tuesday, July 30, 2019 3:57 PM
To: Risley, David <Risley.David@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Assume OGC "has the pen" as they say. We aren't working on responses.

Marianne

Follow us on Twitter! @EPAnorthwest
Like us on Facebook! @eparegion10

From: Risley, David <Risley.David@epa.gov>
Sent: Tuesday, July 30, 2019 12:52 PM
To: Hackel, Angela <Hackel.Angela@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Hi all,
Unfortunately, I have to step away from my desk. Please copy Lee Forsgren (CC'ed here) for OW review on any draft responses to 2 and 3, today.

Best,
David

David Risley
EPA Office of Water
Acting Deputy Communications Director
202-343-9177

AMERICAN OVERSIGHT

From: Hackel, Angela
Sent: Tuesday, July 30, 2019 3:49 PM
To: Abboud, Michael <abboud.michael@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Hello,

I just heard back from a couple of the reporters. I received a noon deadline for the first inquiry. And for the third request, they provided us with a list of their questions, which I provided below.

To summarize for their benefit, there are three distinct inquiries:

(1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?

(2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?

(3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

What is the "specific information" that was not available in 2014 in regard to Pebble Mine that led the EPA to withdraw change their determination restricting the use of the area for a deposit site for dredge and mine fill materials?

Can you further describe this process, "the well-understood elevation process under CWA section 404(q) and the NEPA process" and how that may be exhausted?

How does this impact the Environmental Impact statement for the proposed mine?
What change does this have on the future of the mine?
Does this change have anything to do with the meeting between the Governor of Alaska and the President of the United States in June?

Deadlines 1 (noon July 31), but (2) and (3) today.

Thanks,

Angela

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

From: Abboud, Michael
Sent: Tuesday, July 30, 2019 3:29 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

OVERSIGHT

OPA is aware. I need the factual answers to these questions 1 and 2 to pass along. We won't do a phone interview with this outlet.

From: Willey, Katharine
Sent: Tuesday, July 30, 2019 3:25 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Thanks Rob—all press inquiries on this matter need to go through OPA Michael Abboud (cc'd here) and the front office of OGC (David &I). Michael will let us know how to proceed.

From: Stachowiak, Robert
Sent: Tuesday, July 30, 2019 3:22 PM
To: Hackel, Angela <Hackel.Angela@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble Mine- Press Inquires

Adding in relevant OGC folks for consideration.

To summarize for their benefit, there are three distinct inquiries:

> (1) Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
>
> (2) Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period? If so, may I get a copy of that letter? If not, why not and is the EPA able to move forward in the 404q process without such a letter?
>
> (3) Request to make someone available for phone interview with an Anchorage reporter today regarding the decision.

Deadlines TBD, but (2) and (3) today.

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Hackel, Angela <Hackel.Angela@epa.gov>
Sent: Tuesday, July 30, 2019 3:11 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Risley, David <Risley.David@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>
Subject: Pebble Mine- Press Inquires

Hello,

We have received the below inquires. I am circling back with folks on deadlines, although I know one of them is today.

Please advise as to how you would like to respond to the below.

Thanks!

Angela

AMERICAN OVERSIGHT

From: bbohrer@ap.org <bbohrer@ap.org>
Sent: Tuesday, July 30, 2019 2:38 PM
To: Press <Press@epa.gov>
Subject: Media question-Pebble project-Tuesday

Has the EPA sent to the corps a "will affect" letter, which is due 25 days from the end of a public comment period?
If so, may I get a copy of that letter?
If not, why not and is the EPA able to move forward in the 404q process without such a letter?
Thank you.
I am writing today.
Becky Bohrer

Hello,

Is anyone available to do a phone interview with an Anchorage reporter today regarding this decision?

Please reply all,

Melinda Bolton

Assignment Manager | Content Supervisor

KTUU Channel 2 | ktuu.com

Newsroom (907)762-9260

Direct (330)787-4234

From: elwood.brehmer@alaskajournal.com <elwood.brehmer@alaskajournal.com>
Sent: Tuesday, July 30, 2019 2:54 PM
To: Press <Press@epa.gov>
Subject: Bristol Bay 404c clarification

Hello,
One clarification: Does today's withdrawal of the prior 404c proposed determination prohibit the EPA from reinvoking/restarting the 404c process after the Army Corps would issue a 404 wetlands fill permit to Pebble Partnership?
Thank you,
Elwood

Angela Hackel
Office of Public Affairs
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC 20460
Office: 202.566.2977
Cell: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Peterson, Erik[Peterson.Erik@epa.gov]
From: Wehling, Carrie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E3E55F11FDC7489698BE69849B301DA6-CWEHLING]
Sent: Sat 2/16/2019 3:01:34 PM (UTC)
Subject: Re: Bristol Bay 404(c) Team Update

Thank you!

Sent from my iPhone

On Feb 15, 2019, at 4:31 PM, Peterson, Erik <Peterson.Erik@epa.gov> wrote:

Hello 404c Team,

I plan to cancel our 2/19 meeting and offer the following update in its place.

NEPA/Permit Oversight

DEIS comment period

- The Corps public Draft EIS for the Pebble Mine is scheduled to be published on February 22nd. There is some chance it may be a few days earlier. It will be published online before the Federal Register notice of availability comes out on March 1st. The plan is for a 90 day comment period with comments likely due May 2019.

404 Public Notice

- The Corps' current/recent plan has been to issue a 404 Public Notice on March 1st as well. There is some ongoing dialogue about how 404 PN comment period will be managed.

404c

Bristol Bay Leadership Briefing

- Palmer, Erik, Ashley, David, Patty McGrath and Cara Steiner-Riley continue to prepare for a February 28th Bristol Bay Leadership briefing with Henry Darwin in Seattle and decision-makers from OW, OP and OGC. You can see what we are preparing here: Bristol Bay NEPA 404 Leadership Update Folder. We plan to have our last preparation meeting 2/20 and send final briefing materials 2/21 or 2/22.

CMS

- The CMS response to Pebble Limited Partnership is at HQ and has not been sent out.
- CMSs to the Alaska State Senate and Thomas Allen that are due 2/22 have been drafted and are at the R10 RA's office. There is a new Thomas Allen CMS controlled for response, the 8th since August 2018.

Request for Correction or Withdrawal

- A substantive response to the 11/14/18 Competitive Enterprise Institute's Information Quality Act Request for Correction or Withdrawal is being worked on by Palmer and Kate Schofield. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Press

- Suzanne is working on EPA BB web updates and press materials to coincide with the opening of the public Draft EIS comment period.

FOIA

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)



Erik Peterson, Environmental Review and Sediment Management Unit
U.S. EPA, Region 10
1200 Sixth Avenue
Mail Code: OERA-140
Seattle, Washington 98101
(206) 553-6382

-----Original Appointment-----
From: Peterson, Erik
Sent: Monday, September 17, 2018 1:06 PM
To: Peterson, Erik; Steiner-Riley, Cara; Nalven, Heidi; Wehling, Carrie; Palomaki, Ashley; Bennett, Brittany; Ortiz, Michael; Skadowski, Suzanne; Lindsay, Andrea; Whitley, Annie; Wake, Neverley; Hough, Palmer; Herbst, John
Subject: Bristol Bay 404(c) Team Call
When: Tuesday, February 19, 2019 12:30 PM-1:30 PM (UTC-08:00) Pacific Time (US & Canada).
Where: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference I

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

To: Wheeler, Andrew[wheeler.andrew@epa.gov]
From: Thomas Allen[thomas@markeallenlaw.com]
Sent: Mon 10/1/2018 3:46:01 PM (UTC)
Subject: Tom Allen - Pebble Mine Veto

Mr. Wheeler,

I do not expect you to reply, but if one of your assistants could that would be great. Do you intend on at least commenting on the veto still in place over the Pebble Mine soon? At lot of groups on both sides have been saying different things. I would like some clarity on the EPA's end if at all possible.

Thank you for your time,
Tom Allen

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT

To: Wheeler, Andrew[wheeler.andrew@epa.gov]
From: Thomas Allen[thomas@markeallenlaw.com]
Sent: Tue 7/2/2019 5:25:21 PM (UTC)
Subject: RFC 19001

Mr. Wheeler,

Something needs to be done about the veto hanging over Pebble. It is becoming a clown show. The latest letter from quality doesn't even provide a response date. This should be criminal. WHERE IS THE RESPONSE TO RFC 19001?? The BBWA and preemptive veto are illega! Please help sir, I know you are off the file, but anything you could do to correct the delays would be appreciated.

Respectfully,
Tom

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT

To: Wheeler, Andrew[wheeler.andrew@epa.gov]
From: Scott Anderson[Ex. 6 Personal Privacy (PP)]
Sent: Tue 7/30/2019 7:57:11 PM (UTC)
Subject: TheHill.com: EPA kills proposed Obama-era Pebble mine 'veto'

From TheHill.com:

https://thehill.com/policy/energy-environment/455368-epa-kills-proposed-obama-era-pebble-mine-veto

Sent from my iPad

THE MOST EXTENSIVE STUDY EVER BY THE EPA AND NOW THIS ???
YOU ARE A MORON, AND WE WILL BEAT YOU

AMERICAN OVERSIGHT

To: Wheeler, Andrew[wheeler.andrew@epa.gov]
From: Ex. 6 Personal Privacy (PP)
Sent: Fri 12/21/2018 12:00:39 AM (UTC)
Subject: Demand Due Process - Justin GUlley

Entry Details

NAME	Justin GUlley
ADDRESS	Ex. 6 Personal Privacy (PP)
PHONE	Ex. 6 Personal Privacy (PP)
EMAIL	
PERSONALIZED MESSAGE	Dear Mr. Wheeler, I am concerned by the lack of removal of the Pebble Veto. It clearly is killing investors and could boost the local and state economies of AK. I am curious Why it hasnt been lifted ? We are in Permitting is there a specific reasoning behind not lifting it ? If the EIS comes back positive are you going to succumb to political pressure and keep it in place? And I don't mean that to be rude , but as a investor in the project who has take a huge Financial loss based on you predecessors careless action and words I feel it would be great for someone to clarify the EPA position. Many believe it is so it will hold up in court due to the inevitable Lawsuits that would surely follow if it is lifted. Can you comment on any of it? Sincerely I osing Faith in American investment opportunity Justin Gulley To Whom it May Concern: I am writing to encourage Mr. Wheeler and the EPA to restore due process, fairness, and regulatory stability surrounding resource development projects in America: 1) Preemptive vetoes are bad policy and violate due process. The EPA's actions set a damaging precedent wherein projects which have not enjoyed the scientific and other study required by law can be shut down. This is an affront to fair practice. 2) These actions impact all U.S. industries, not just a single mine.

AMERICAN OVERSIGHT

Preempting due process is a dangerous and alarming new tool which future partisan governments could employ, undermining a transparent and reliable regulatory and permit approval process.

3) Alaskans believe in due process, fairness, and regulatory stability.

Furthermore, all Alaska trade associations have expressed unified concern about preemptive vetoes and have stood steadfast in support of the established process for evaluating resource projects.

Sincerely,

AMERICAN OVERSIGHT

To: Wheeler, Andrew[wheeler.andrew@epa.gov]
From: thestockwatchlist@gmail.com[notifications@cognitoforms.com]
Sent: Fri 10/26/2018 10:34:00 PM (UTC)
Subject: Demand Due Process - maria sanchez

Entry Details

NAME	maria sanchez
ADDRESS	**Ex. 6 Personal Privacy (PP)**
EMAIL	thestockwatchlist@gmail.com
PERSONALIZED MESSAGE	Remove the Obama pebble mine veto # FAKE SCIENCE https://capitalresearch.org/article/two-gold-into-dross/

To Whom it May Concern:

I am writing to encourage Mr. Wheeler and the EPA to restore due process, fairness, and regulatory stability surrounding resource development projects in America:

1) Preemptive vetoes are bad policy and violate due process.

The EPA's actions set a damaging precedent wherein projects which have not enjoyed the scientific and other study required by law can be shut down. This is an affront to fair practice.

2) These actions impact all U.S. industries, not just a single mine.

Preempting due process is a dangerous and alarming new tool which future partisan governments could employ, undermining a transparent and reliable regulatory and permit approval process.

3) Alaskans believe in due process, fairness, and regulatory stability.

Furthermore, all Alaska trade associations have expressed unified concern about preemptive vetoes and have stood steadfast in support of the established process for evaluating resource projects.

AMERICAN OVERSIGHT

Sincerely,

Maria

AMERICAN OVERSIGHT

To: Wheeler, Andrew[wheeler.andrew@epa.gov]
From: Ex. 6 Personal Privacy (PP)
Sent: Fri 10/26/2018 5:26:39 PM (UTC)
Subject: Demand Due Process - John Vittori

Entry Details

NAME	John Vittori
ADDRESS	Ex. 6 Personal Privacy (PP)
PHONE	
EMAIL	
PERSONALIZED MESSAGE	Mr. Wheeler, I think the pre-emptive veto is bad policy and sets an alarming precedent. Not to mention this action was based upon a fictional mine plan and does not heed the extensive research that shows the mine will not adversely impact the Bristol Bay fisheries. The shadow cast by this veto only serves to hurt Northern Dynasty and its investors by discouraging partnership with a major miner which is needed to see this through the permit process. Please remove this pre-emptive veto immediately and let science determine whether or not this mine can coexist with the environment. From the $150M already spent on these studies, we know this mine can function without adverse affects to the fisheries. Sincerely, John Vittori

AMERICAN OVERSIGHT

To: Voyles, Travis[Voyles.Travis@epa.gov]
From: willey.katharine@epa.gov[willey.katharine@epa.gov]
Sent: Sat 8/3/2019 6:15:16 PM (UTC)
Subject: Re: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Yep.

On Aug 3, 2019, at 12:33 PM, Voyles, Travis <Voyles.Travis@epa.gov> wrote:

> Will you just include me in any response you give to John Mark?
>
> Sent from my iPhone
>
> On Aug 3, 2019, at 6:58 AM, Willey, Katharine <willey.katharine@epa.gov> wrote:
>
> > Wanted to make sure you're in the loop on this.
> >
> > Begin forwarded message:
> >
> > **From:** "Kolb, John (JohnMark)" <kolb.john@epa.gov>
> > **Date:** August 2, 2019 at 9:51:23 AM EDT
> > **To:** "Willey, Katharine" <willey.katharine@epa.gov>
> > **Cc:** "Brazauskas, Joseph" <brazauskas.joseph@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>
> > **Subject: FW: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area**
> >
> > Katharine,
> >
> > Do either of these weeks work for Matt, and do you have a preference?
> >
> > **JohnMark Kolb**
> > *Congressional and Intergovernmental Relations*
> > U.S. Environmental Protection Agency
> > O: (202) 564-7793
> > C: Ex. 6 Personal Privacy (PP)
> >
> > ---
> >
> > **From:** Bermudez, Navis <Navis.Bermudez@mail.house.gov>
> > **Sent:** Thursday, August 1, 2019 2:24 PM
> > **To:** Kolb, John (JohnMark) <kolb.john@epa.gov>; Seiger, Ryan <Ryan.Seiger@mail.house.gov>
> > **Cc:** Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Touton, Camille <Camille.Touton@mail.house.gov>; Williams, Alexa <Alexa.Williams2@mail.house.gov>
> > **Subject:** RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area
> >
> > Hello JohnMark,
> >
> > We were thinking we would open it up to the full Committee, but we can't guarantee that all LAs would attend. Are there any days the week of the 12th that work? Or the first week of September? Once we have a date nailed down, we can send the invitation to the entire full Committee (both Majority and Minority).
> >
> > Thank you, Navis

AMERICAN OVERSIGHT

Navis A. Bermudez
Professional Staff
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
202.226.0066

From: Kolb, John (JohnMark) <kolb.john@epa.gov>
Sent: Wednesday, July 31, 2019 4:16 PM
To: Seiger, Ryan <Ryan.Seiger@mail.house.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Bermudez, Navis <Navis.Bermudez@mail.house.gov>; Touton, Camille <Camille.Touton@mail.house.gov>; Williams, Alexa <Alexa.Williams2@mail.house.gov>
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Ryan,

A few quick questions: Is this going to be a Subcommittee briefing or with the full Committee? And how many staff do you anticipate joining? As you know, it is standard Agency practice that we provide briefings on a bipartisan basis and will extend the invite to Minority staff as well. If there are any other accommodations you would like please let me know and we can start working on some times.

Sincerely,

JohnMark Kolb
Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
O: (202) 564-7793
C: Ex. 6 Personal Privacy (PP)

From: Seiger, Ryan <Ryan.Seiger@mail.house.gov>
Sent: Tuesday, July 30, 2019 4:39 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Bermudez, Navis <Navis.Bermudez@mail.house.gov>; Touton, Camille <Camille.Touton@mail.house.gov>; Williams, Alexa <Alexa.Williams2@mail.house.gov>
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

John:

The House Transportation and Infrastructure Committee would be interested in a meeting on this.

Let's start to identify some times in the near future when this can happen.

Ryan C. Seiger
Staff Director/Senior Counsel
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
585 Ford House Office Building
Washington, D.C. 20515
(202) 225-0060

AMERICAN OVERSIGHT

From: Kolb, John (JohnMark) <kolb.john@epa.gov>
Sent: Tuesday, July 30, 2019 1:55 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>
Subject: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

All –

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AMERICAN OVERSIGHT

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If you or your staff would like a briefing on the decision by EPA to withdraw the 2014 Proposed Determination, please let me know, and I will be happy to arrange something in the following week.

Sincerely,

JohnMark Kolb
Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
O: (202) 564-7793
C: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Kolb, John (JohnMark)[kolb.john@epa.gov]; Willey, Katharine[willey.katharine@epa.gov]
Cc: Brazauskas, Joseph[brazauskas.joseph@epa.gov]; Rodrick, Christian[rodrick.christian@epa.gov]; Voyles, Travis[Voyles.Travis@epa.gov]
From: Mutz, John (Fletcher)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEAA6512608B46548048F5050ED47658-MUTZ, JOHN]
Sent: Mon 8/5/2019 1:19:05 PM (UTC)
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

John Mark,

Ex. 5 Deliberative Process (DP)

Thanks,
Fletcher

From: Kolb, John (JohnMark) <kolb.john@epa.gov>
Sent: Monday, August 5, 2019 9:10 AM
To: Mutz, John (Fletcher) <mutz.john@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Morning,

Ex. 5 Deliberative Process (DP)

-JMK

From: Mutz, John (Fletcher) <mutz.john@epa.gov>
Sent: Monday, August 5, 2019 8:58 AM
To: Willey, Katharine <willey.katharine@epa.gov>; Kolb, John (JohnMark) <kolb.john@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Good Morning,

Ex. 5 Deliberative Process (DP)

Fletcher

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Sunday, August 4, 2019 4:14 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>; Mutz, John (Fletcher) <mutz.john@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: Re: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Ex. 5 Deliberative Process (DP)

On Aug 2, 2019, at 9:51 AM, Kolb, John (JohnMark) <kolb.john@epa.gov> wrote:

Katharine,

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

JohnMark Kolb
Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
O: (202) 564-7793
C: Ex. 6 Personal Privacy (PP)

From: Bermudez, Navis <Navis.Bermudez@mail.house.gov>
Sent: Thursday, August 1, 2019 2:24 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>; Seiger, Ryan <Ryan.Seiger@mail.house.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Touton, Camille <Camille.Touton@mail.house.gov>; Williams, Alexa <Alexa.Williams2@mail.house.gov>
Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Hello JohnMark,

We were thinking we would open it up to the full Committee, but we can't guarantee that all LAs would attend. Are there any days the week of the 12th that work? Or the first week of September? Once we have a date nailed down, we can send the invitation to the entire full Committee (both Majority and Minority).

Thank you, Navis

Navis A. Bermudez
Professional Staff
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
202.226.0066

From: Kolb, John (JohnMark) <kolb.john@epa.gov>
Sent: Wednesday, July 31, 2019 4:16 PM
To: Seiger, Ryan <Ryan.Seiger@mail.house.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Bermudez, Navis <Navis.Bermudez@mail.house.gov>; Touton, Camille <Camille.Touton@mail.house.gov>; Williams, Alexa <Alexa.Williams2@mail.house.gov>
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A few quick questions: Is this going to be a Subcommittee briefing or with the full Committee? And how many staff do you anticipate joining? As you know, it is standard Agency practice that we provide briefings on a bipartisan basis and will extend the invite to Minority staff as well. If there are any other accommodations you would like please let me know and we can start working on some times.

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JohnMark Kolb
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Sent: Tuesday, July 30, 2019 4:39 PM
To: Kolb, John (JohnMark) <kolb.john@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Bermudez, Navis <Navis.Bermudez@mail.house.gov>; Touton, Camille <Camille.Touton@mail.house.gov>; Williams, Alexa <Alexa.Williams2@mail.house.gov>

AMERICAN OVERSIGHT

Subject: RE: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

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Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
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AMERICAN OVERSIGHT

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JohnMark Kolb
Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
O: (202) 564-7793
C: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Voyles, Travis[Voyles.Travis@epa.gov]
From: Willey, Katharine[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B62280CA8B184930814F27E4904CD17B-WILLEY, KAT]
Sent: Sat 8/3/2019 6:15:18 PM (UTC)
Subject: Re: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area

Yep.

On Aug 3, 2019, at 12:33 PM, Voyles, Travis <Voyles.Travis@epa.gov> wrote:

> Will you just include me in any response you give to John Mark?
>
> Sent from my iPhone
>
> On Aug 3, 2019, at 6:58 AM, Willey, Katharine <willey.katharine@epa.gov> wrote:
>
> > Wanted to make sure you're in the loop on this.
> >
> > Begin forwarded message:
> >
> > **From:** "Kolb, John (JohnMark)" <kolb.john@epa.gov>
> > **Date:** August 2, 2019 at 9:51:23 AM EDT
> > **To:** "Willey, Katharine" <willey.katharine@epa.gov>
> > **Cc:** "Brazauskas, Joseph" <brazauskas.joseph@epa.gov>, "Rodrick, Christian" <rodrick.christian@epa.gov>
> > **Subject: FW: EPA Withdraws Proposed Determination under CWA Section 404(c) for the use of Pebble Deposit Area**
> >
> > Katharine,
> >
> > Do either of these weeks work for Matt, and do you have a preference?
> >
> > **JohnMark Kolb**
> > *Congressional and Intergovernmental Relations*
> > U.S. Environmental Protection Agency
> > O: (202) 564-7793
> > C: Ex. 6 Personal Privacy (PP)
> >
> > ---
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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

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U.S. Environmental Protection Agency
O: (202) 564-7793
C: Ex. 6 Personal Privacy (PP)

AMERICAN OVERSIGHT

To: Rich, Stephanie[Rich.Stephanie@epa.gov]
Cc: Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Fotouhi, David[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: Fri 3/22/2019 2:00:44 PM (UTC)
Subject: RE: One-time delegation
Bristol Bay one time delegation.docx

DELIBERATIVE—DRAFT—DO NOT RELEASE

Hi, Stephanie.

Thanks so much for taking a look. The current working draft is attached.

Ex. 5 Deliberative Process (DP)

I've copied the WLO team in case there are any questions about the regs. Let me know if you have comments or suggestions. Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Rich, Stephanie
Sent: Friday, March 22, 2019 7:31 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: RE: One-time delegation

Hi David-

Yes, I can review it. Please send over when you are ready.

Stephanie

Stephanie Rich
Attorney-Advisor
Office of General Counsel
Civil Rights and Finance Law Office
U.S. Environmental Protection Agency
WJCN 7409F (Mail Stop 2399A)
1200 Pennsylvania Ave, NW, Washington, DC 20004
202-564-4963
Rich.stephanie@epa.gov

AMERICAN OVERSIGHT

From: Fotouhi, David
Sent: Thursday, March 21, 2019 8:48 PM
To: Rich, Stephanie <Rich.Stephanie@epa.gov>; Hogan, Joanne <Hogan.Joanne@epa.gov>
Subject: One-time delegation

Stephanie, Joanne,

Would one of you be available tomorrow morning to review a short one-time delegation? Thanks!

Best,

David

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

AMERICAN OVERSIGHT

To: Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Green, Noelle[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9EC442D76BA547F681CBB9B52F990A97-GREEN, NOEL]
Sent: Mon 5/21/2018 1:55:05 PM (UTC)
Subject: RE: QFRs Calvert 28-32

Heidi,

Since this is very much steeped in the facts and policy of Bristol Bay, I am assuming that you are taking the lead on reviewing these QFRs. That said, please let me know if there's anything in particular I can assist with or look at. I had one global thought, and that **Ex. 5 AC/DP** but I defer to you on that.

Thanks,

Noelle Green
Attorney-Advisor
Cross-Cutting Issues Law Office
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, Northwest
Washington, DC 20460
(202) 564-1236
green.noelle@epa.gov

From: Logan, Shanita
Sent: Friday, May 18, 2018 6:05 PM
To: Green, Noelle <Green.Noelle@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Lindo, Talitha <lindo.talitha@epa.gov>
Subject: QFRs Calvert 28-32

All,
The attached QFR(s) has been forwarded for your review, feedback and/or concurrence. Please use one of the following reply options:

1) No comments/feedback (single or multiple QFR's) – Select the **Comment icon** and simply type **concur;**
2) Comment(s) to a single question– Use **Track Changes** and/or **Comment icon** to insert all comments and feedback into the Word document.
3) Combined set of questions - Within the same document, please select the **Comment icon** to **concur**; and use **Track Changes** and/or **Comment icon** to insert all comments and feedback – see example below

Responses are due by **cob, May 22, 2018**. Please forward all Word documents to RMO's Budget team: Shanita Logan (logan.shanita@epa.gov) and Talitha Lindo (lindo.talitha@epa.gov) .
Thanks.
Shanita Logan
202-564-0227

AMERICAN OVERSIGHT

Example

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

To: Nalven, Heidi[Nalven.Heidi@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
From: Eisenberg, Mindy[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: Fri 5/11/2018 1:20:31 PM (UTC)
Subject: RE: HAC QFR - Bristol Bay / 404(c) Draft Responses

Thanks!

Mindy Eisenberg
Associate Director, Oceans, Wetlands & Communities Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4504T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Nalven, Heidi
Sent: Friday, May 11, 2018 9:19 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: HAC QFR - Bristol Bay / 404(c) Draft Responses

See attached per discussion.

From: Eisenberg, Mindy
Sent: Thursday, May 10, 2018 6:31 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: RE: HAC QFR - Bristol Bay / 404(c) Draft Responses

Hi All,
Thanks so much for your quick turnaround on these QFRs. I did some trimming back to keep the responses a little shorter and targeted. I am sending you what I'm sending to John for review.

Thanks,
Mindy

Mindy Eisenberg
Associate Director, Oceans, Wetlands & Communities Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4504T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 10, 2018 5:49 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: HAC QFR - Bristol Bay / 404(c) Draft Responses

Mindy,

AMERICAN OVERSIGHT

Attached is a draft response to questions 28-32 for the Appropriations QFR. This response has been reviewed by OGC, ORC, and HQ 404 program staff.

Ex. 5 Deliberative Process (DP)

Please let us know if you need anything else for this response,

Brittany

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

AMERICAN OVERSIGHT

To: Nalven, Heidi[Nalven.Heidi@epa.gov]
From: Palomaki, Ashley[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=51778D942F2741F8885A8180EC2D6036-PALOMAKI, A]
Sent: Thur 5/10/2018 11:03:41 PM (UTC)
Subject: FW: HAC QFR - Bristol Bay / 404(c) Draft Responses
House IE FY 2019 EPA QFRs_OWCD.docx

Ex. 5 Deliberative Process (DP)

Ashley Palomaki
Assistant Regional Counsel
U.S. EPA Region 10 Office of Regional Counsel
1200 Sixth Avenue, Suite 155, ORC-113
Seattle, WA 98101
206-553-8582

From: Eisenberg, Mindy
Sent: Thursday, May 10, 2018 3:31 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: RE: HAC QFR - Bristol Bay / 404(c) Draft Responses

Hi All,
Thanks so much for your quick turnaround on these QFRs. I did some trimming back to keep the responses a little shorter and targeted. I am sending you what I'm sending to John for review.

Thanks,
Mindy

Mindy Eisenberg
Associate Director, Oceans, Wetlands & Communities Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4504T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 10, 2018 5:49 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Frazer, Brian <Frazer.Brian@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Kaiser, Russell <Kaiser.Russell@epa.gov>; Hough, Palmer <Hough.Palmer@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>
Subject: HAC QFR - Bristol Bay / 404(c) Draft Responses

Mindy,

Attached is a draft response to questions 28-32 for the Appropriations QFR. This response has been reviewed by OGC, ORC, and HQ 404 program staff.

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

Please let us know if you need anything else for this response,

Brittany

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

AMERICAN OVERSIGHT

To: Neugeboren, Steven[Neugeboren.Steven@epa.gov]
Cc: Stachowiak, Robert[Stachowiak.Robert@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Tue 7/16/2019 8:55:20 PM (UTC)
Subject: FW: Request for Instruction Follow Up RE: RFC 19001 - three individual inquiries
Re: RFC 19001-Bristol Bay
Re: RFC 19001 - Bristol Bay
RFC 19001
Daily Mail from Mr. Allen: RFC 19001

Can you raise this in your weekly with David? There are more inquiries and OEI is looking for direction from Matt.

From: Thoma, Connie
Sent: Tuesday, July 16, 2019 4:24 PM
To: Mutz, John (Fletcher) <mutz.john@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Sheppard, Tracy <Sheppard.Tracy@epa.gov>; Kirby, Kevin <KIRBY.KEVIN@EPA.GOV>; Holloman, Vincia <Holloman.Vincia@epa.gov>
Subject: Request for Instruction Follow Up RE: RFC 19001 - three individual inquiries
Importance: High

Ladies and Gentleman,

Suggestion of a FOIA request regarding this RFC Response has been floated by one of the frequent correspondents.

Still awaiting instruction regarding communication per the last attachment, previous request.

Thank you,

Connie F. Thoma
U.S. Environmental Protection Agency
OMS/OEIP/Enterprise Quality Management Division
Washington, DC 20460
Tel: 202-564-6874
https://www.epa.gov/quality

AMERICAN OVERSIGHT

Appointment

From: Nalven, Heidi [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: 2/12/2019 1:58:06 PM
To: Peterson, Erik [Peterson.Erik@epa.gov]

Subject: Accepted: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

To: Wehling, Carrie[Wehling.Carrie@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]
From: Nalven, Heidi[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B698043B7EE461198A73177935098D4-HNALVEN]
Sent: Mon 5/21/2018 2:59:37 PM (UTC)
Subject: RE: QFRs Calvert 28-32
CAL - 028-032_WLO.docx

Thanks Carrie. Ex. 5 AC/DP

Ex. 5 AC/DP

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Wehling, Carrie
Sent: Monday, May 21, 2018 8:28 AM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Cc: Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: QFRs Calvert 28-32

Heidi - Ex. 5 AC/DP

Ex. 5 AC/DP

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Neugeboren, Steven
Sent: Friday, May 18, 2018 6:09 PM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: FW: QFRs Calvert 28-32

Keeping carrie in the loop.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Logan, Shanita
Sent: Friday, May 18, 2018 6:05 PM
To: Green, Noelle <Green.Noelle@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Koslow, Karin <Koslow.Karin@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Lindo, Talitha <lindo.talitha@epa.gov>
Subject: QFRs Calvert 28-32

AMERICAN OVERSIGHT

All,
The attached QFR(s) has been forwarded for your review, feedback and/or concurrence. Please use one of the following reply options:

1. No comments/feedback (single or multiple QFR's) – Select the **Comment icon** and simply type **concur;**
2. Comment(s) to a single question– Use **Track Changes** and/or **Comment icon** to insert all comments and feedback into the Word document.
3. Combined set of questions - Within the same document, please select the **Comment icon** to **concur**; and use **Track Changes** and/or **Comment icon** to insert all comments and feedback – see example below

Responses are due by **cob, May 22, 2018**. Please forward all Word documents to RMO's Budget team: Shanita Logan (logan.shanita@epa.gov) and Talitha Lindo (lindo.talitha@epa.gov) .
Thanks.
Shanita Logan
202-564-0227

Example

Ex. 5 Deliberative Process (DP)

AMERICAN OVERSIGHT

Cc: Wehling, Carrie[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Cody, Meredith[cody.meredith@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov]
To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]
From: Neugeboren.Steven@epa.gov[Neugeboren.Steven@epa.gov]
Sent: Wed 6/5/2019 1:49:48 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

David - perhaps you can connect with matt on this?

Sent from my iPhone
Steven Neugeboren
Associate General Counsel for Water
U.S. EPA
202-564-5488

On Jun 5, 2019, at 9:23 AM, Stachowiak, Robert <Stachowiak.Robert@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Thanks,
R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Neugeboren, Steven
Sent: Wednesday, May 29, 2019 6:02 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

David and I just discussed and think we should discuss at re greview tomorrow. pls see if ccilo can join.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Stachowiak, Robert
Sent: Tuesday, May 28, 2019 4:32 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

Hi everyone –

There are two e-mail threads on this, so bringing them together to identify next steps.

So that Matt can be responsive to the incoming, I had proposed the following response (as edited by Heidi) –

AMERICAN OVERSIGHT

Ex. 5 Deliberative Process (DP)

David/Steve – Are you OK with moving forward on the interim response above?

Thanks,
R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Neugeboren, Steven
Sent: Tuesday, May 28, 2019 9:17 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

I agree that since Matt decided OW should sign response to RFC it would make sense for them to respond to this as needed. Adding David.

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Wehling, Carrie
Sent: Monday, May 27, 2019 9:37 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: RE: RFC 19001-Bristol Bay

This issue is a bit different since it's not generally about Pebble but about a Request for Correction. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004

AMERICAN OVERSIGHT

202-564-5492
wehling.carrie@epa.gov

From: Stachowiak, Robert
Sent: Friday, May 24, 2019 3:42 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Cc: Cody, Meredith <cody.meredith@epa.gov>
Subject: FW: RFC 19001-Bristol Bay

WLO folks – Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Sincerely,

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel

CC: EPA/OGC/Water Law Office

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Leopold, Matt (OGC)
Sent: Friday, May 24, 2019 3:30 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Subject: Fwd: RFC 19001-Bristol Bay

Another inquiry.

Sent from my iPhone
Begin forwarded message:

From: Tim Stephens Ex. 6 Personal Privacy (PP)
Date: May 24, 2019 at 2:54:26 PM EDT
To: Quality@epa.gov
Cc: leopold.matthew@epa.gov
Subject: Re: RFC 19001-Bristol Bay

Typo *RFC was filed 11.15.2018*.

Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens < Ex. 6 Personal Privacy (PP) wrote:
-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

AMERICAN OVERSIGHT

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses)
Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens <Ex. 6 Personal Privacy (PP) wrote:
Kindly following up.

Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens <Ex. 6 Personal Privacy (PP) wrote:
Hello,

As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

--
-Tim S

--
-Tim S

--
-Tim S

--
-Tim S

AMERICAN OVERSIGHT

Appointment

From: Neugeboren, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: 7/25/2019 3:26:23 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]

Subject: Accepted: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM

Recurrence: (none)

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
Cc: Carrie Wehling[Wehling.Carrie@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Allyn Stern[Stern.Allyn@epa.gov]
From: Neugeboren, Steven[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFD837AC503949A9820715B53BA921E6-SNEUGEBO]
Sent: Fri 7/26/2019 11:44:06 PM (UTC)
Subject: Pebble Notice
Withdrawal of 2014 Proposed Determination_072619.docx

Matt and David,

I have attached the latest clean draft of the Bristol Bay PD withdrawal notice that reflects your most recent feedback. I understand that you will be transmitting a draft of the notice to Chris and Lee separately. As discussed earlier today with David, copying Allyn as well.

Heidi thank you for all of your work on this. Have a good weekend all.

Steve

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 2/8/2019 5:49:05 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 2/12/2019 8:30:00 PM
End: 2/12/2019 9:15:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Normal day and time.

Agenda

Bristol Bay Leadership Update
- Timing and content

Request for Correction
- Report out on 2/6 scoping meeting

CMS
- PLP
- AK State Senate
- Allen
- Others?

FOIA
- McKeever
- Trustees

→ Join by Phone

Toll number: Ex. 5 Deliberative Process (DP)
Conference ID:

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 2/6/2019 11:34:37 PM
To: Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Wake, Neverley [wake.neverley@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call
Location: R10Sea-Room-14WallaWalla/R10-Rooms-Service-Center

Start: 2/13/2019 8:00:00 PM
End: 2/13/2019 9:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Would like to move this to Wednesday due to a conflict.

Agenda

Bristol Bay Leadership Update
- Timing and content

Request for Correction
- Report out on 2/6 scoping meeting

CMS
- PLP
- AK State Senate
- Allen
- Others?

FOIA
- McKeever
- Trustees

→ Join by Phone

Toll number: [redacted]
Conference ID [redacted] Ex. 5 Deliberative Process (DP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/14/2018 9:15:09 PM
To: Allnutt, David [Allnutt.David@epa.gov]; Anderson-Carnahan, Linda [Anderson-Carnahan.Linda@epa.gov]; McGrath, Patricia [mcgrath.patricia@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Nogi, Jill [nogi.jill@epa.gov]; Douglas, Mark [douglas.mark@epa.gov]; Vaughan, Molly [Vaughan.Molly@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Fordham, Tami [Fordham.Tami@epa.gov]; Stern, Allyn [Stern.Allyn@epa.gov]
CC: Detwiler, Susan K. [detwiler.susan@epa.gov]; Thiesing, Mary [Thiesing.Mary@epa.gov]

Subject: Bristol Bay Check-in
Location: R10Sea-Room-14Elwha/R10-Rooms-Service-Center

Start: 12/18/2018 5:00:00 PM
End: 12/18/2018 6:00:00 PM
Show Time As: Tentative

Recurrence: Weekly
every 2 week(s) on Tuesday from 9:00 AM to 10:00 AM

Proposed Agenda – let Erik know if you have suggestions

Permit Oversight/ NEPA Review Team

NEPA Preliminary EIS Comments

404(c) Team

Hladick and Forsgren 12/12 Briefing

Bristol Bay NEPA and 404 Leadership Update for January 2019

CMS Pebble Limited Partnership

FOIA

Request for Correction or Withdrawal

→ Join by Phone

Toll number: Ex. 6 Personal Privacy (PP)
Conference ID: Ex. 6 Personal Privacy (PP)

Local numbers: Seattle Ex. 6 Personal Privacy (PP) Anchorage Ex. 6 Personal Privacy (PP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Peterson, Erik [Peterson.Erik@epa.gov]
Sent: 12/10/2018 7:03:49 PM
To: Wake, Neverley [wake.neverley@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Palomaki, Ashley [Palomaki.Ashley@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Ortiz, Michael [Ortiz.Michael@epa.gov]; Skadowski, Suzanne [Skadowski.Suzanne@epa.gov]; Lindsay, Andrea [Lindsay.Andrea@epa.gov]; Whitley, Annie [Whitley.Annie@epa.gov]; Hough, Palmer [Hough.Palmer@epa.gov]; Herbst, John [herbst.john@epa.gov]

Subject: Bristol Bay 404(c) Team Call

Start: 12/11/2018 8:30:00 PM
End: 12/11/2018 9:30:00 PM
Show Time As: Tentative

Recurrence: Weekly
every Tuesday from 12:30 PM to 1:30 PM

Hello Bristol Bay 404c Team,

I'd like to meet on 12/11.

Proposed Agenda

NEPA Preliminary EIS Comments

Plan for Hladick and Forsgren Briefing – 12/12

FOIA

Request for Correction or Withdrawal

CMS: BBNC, Thomas Allen, PLP

→ Join by Phone

Toll number:
Conference ID: Ex. 5 Deliberative Process (DP)

→ Meeting Organizer

Erik Peterson, USEPA (206) 553-6382 office

AMERICAN OVERSIGHT

Appointment

From: Mutz, John (Fletcher) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEAA6512608B46548048F5050ED47658-MUTZ, JOHN]
Sent: 7/25/2019 1:44:37 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]

Subject: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

Appointment

From: Mutz, John (Fletcher) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEAA6512608B46548048F5050ED47658-MUTZ, JOHN]
Sent: 7/25/2019 1:44:37 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]
CC: Fotouhi, David [fotouhi.david@epa.gov]

Subject: Pebble Notice
Location: 4000

Start: 7/25/2019 5:00:00 PM
End: 7/25/2019 6:00:00 PM
Show Time As: Busy

AMERICAN OVERSIGHT

To: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Hewitt, James[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=41B19DD598D340BB8032923D902D4BD1-HEWITT, JAM]
Sent: Tue 7/3/2018 5:54:04 PM (UTC)
Subject: RE: Off-the-record ...

Thanks Matt, just emailed her asking for her number. Will let you know when she gets back to me.

From: Leopold, Matt (OGC)
Sent: Tuesday, July 3, 2018 1:52 PM
To: Hewitt, James <hewitt.james@epa.gov>
Subject: Re: Off-the-record ...

I'm here. I'll swing by your office.

Sent from my iPhone
On Jul 3, 2018, at 1:50 PM, Hewitt, James <hewitt.james@epa.gov> wrote:

> Matt, are you in today? Kim Strassel is looking to write on this soon but would like to talk to someone. I understand David is out today.
>
> **From:** Kim Strassel [mailto:kim.strassel@wsj.com]
> **Sent:** Tuesday, July 3, 2018 1:20 PM
> **To:** Wilcox, Jahan <wilcox.jahan@epa.gov>
> **Cc:** Hewitt, James <hewitt.james@epa.gov>
> **Subject:** Re: Off-the-record ...
>
> James,
> I'm back from vacation and am going to write about this. But i'd like to talk to someone there about the Pebble portion of it. Could I get someone on the phone today? (I sent this to Jahan, but got and out-of-office notice). Thanks! Kim
>
> On Mon, Jun 25, 2018 at 11:10 AM Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:
> Kim –
>
> Pruitt will be signing this today and we will be announcing it tomorrow. Would you like to break it first tonight? If that answer is yes, I will get you the official copy/text once it's signed.
>
> **MEMORANDUM**
> **SUBJECT:** Updating EPA's Regulations Implementing Clean Water Act Section 404(c)
> **FROM:** E. Scott Pruitt, Administrator
> **TO:** Distribution [AA for Water, General Counsel, Regional Administrators]
>
> It is essential that the Environmental Protection Agency adhere to its core mission of protecting human health and the environment in a manner that is fully considered as well as consistent with the Agency's authority. When EPA uses its authority "preemptively" and without the benefit of the fully developed factual record or attempts to reimagine its authority in ways that diverge from statutory text or congressional intent, it diverts its attention from this core mission and engages in decision-making without a full understanding of the impacts of those decisions. To address this concern, at every opportunity I have directed the Agency to ensure predictability and regulatory certainty and take actions based upon a comprehensive understanding of the facts. These are the hallmarks of the proper exercise of administrative authority and due process under the law.
>
> Today, I am directing the Office of Water to take another step toward returning the Agency to its core mission and providing regulatory certainty by **developing a proposal to change the regulations governing EPA's exercise of its authority under Clean Water Act section 404(c), which allows EPA to veto the**

AMERICAN OVERSIGHT

issuance of permits by the U.S. Army Corps of Engineers ("Corps") or an approved State to discharge dredged or fill material at specified disposal sites. These regulations were last revised nearly 40 years ago—at a time in our history when environmental safeguards and analytical methods were far less-developed than today. EPA's regulations should reflect today's permitting process and modern-day methods and protections, including the robust existing processes under the National Environmental Policy Act that already require federal agencies to consider the environmental and related social and economic effects of their proposed actions while providing opportunities for public review and comment on those evaluations. Any new regulations should seek to address significant concerns surrounding EPA's prior use of its veto authority before a permit application has been filed or after a permit has been issued. This long-overdue update to the regulations has the promise of increasing certainty for landowners, investors, businesses, and entrepreneurs to make investment decisions while preserving EPA's authority to restrict discharges of dredge or fill material that will have an unacceptable adverse effect on water supplies, recreation, fisheries, and wildlife.

Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into waters of the United States by assigning differing roles to the Administrator and the Secretary of the Army. Section 404(a) empowers the Secretary of the Army, acting through the Army Corps of Engineers, to issue permits allowing for discharge of dredged or fill material at "specified disposal sites." States may assume administration of this program, as Michigan and New Jersey have done. Section 404(b) provides that the Corps or State shall specify each disposal site for each permit "subject to subsection (c)." EPA has developed guidelines for this process. Section 404(c) provides EPA with so-called veto authority. Specifically, section 404(c) authorizes the Administrator "to prohibit the specification (including withdrawal of the specification) of any defined area as a disposal site" as well as to "deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site . . . whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas."

In 1979—seven years after Congress enacted section 404—EPA promulgated regulations that established procedures for exercising authority under section 404(c). *See* 44 FR 58076 (Oct. 9, 1979). The regulations establish defined steps with specific associated criteria: EPA's Regional Administrators are given responsibility for initiating the 404(c) process, issuing a proposed determination, and preparing and transmitting to EPA Headquarters a recommended determination to prohibit, withdraw, deny, or restrict the specification of a site as a disposal site. The Administrator, upon receipt of a recommended determination and after consultation with the Corps or the State, has the authority to issue a final determination to affirm, modify, or rescind the recommendation determination. **EPA has issued 13 final determinations since 1972 at various stages in the permitting process, including two instances where the action extended to areas for which a permit application was not pending and other instances after a permit had been issued.**[1]

EPA has asserted since 1979 that its "section 404(c) authority may be exercised before a permit is applied for, while an application is pending, or after a permit has been issued." 44 FR at 58076; *see also* 40 C.F.R. § 231.1(c). Commenters at the time the regulations were proposed opposed the use of EPA's authority before a permit application had been received or after a permit had been issued by the Corps or State. 44 FR at 58077. EPA responded to concerns about the practical application of pre-permit use of 404(c) by noting that this approach will facilitate planning by developers and industry and "eliminate frustrating situations in which someone spends time and money developing a project for an inappropriate site and learns at an advanced stage that he must start over." *Id.* EPA also stated that while "the statute on its face clearly allows EPA to act after the Corps issued a permit," EPA "recognize[d] that where possible it is much preferable to exercise this authority before the Corps or state has issued a permit, and before the permit holder has begun operations." *Id.*

During the prior Administration, EPA proposed to restrict discharges of dredge and fill material associated

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with mining activity near Bristol Bay, Alaska, which drew significant public scrutiny. Before advocates of mining of the Pebble Deposit submitted a permit application to the Corps, EPA Region 10 undertook an ecological risk assessment of three mining scenarios of different sizes based on information submitted to the Securities & Exchange Commission. Region 10 then issued a Proposed Determination to restrict the discharge of dredged or fill material from mining of the Pebble Deposit for "the potential disposal site [defined as] the waters within the mine claims held by [Northern Dynasty Minerals] subsidiaries, including PLP [Pebble Limited Partnership], that fall within the [South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek] watersheds." PLP subsequently obtained a preliminary injunction that halted the section 404(c) process before Region 10 could determine whether to prepare a recommended determination to transmit to EPA Headquarters. In December 2017, PLP submitted a permit application to the Corps. Earlier this year, EPA suspended its proposed withdrawal of the proposed determination; EPA also committed not to send a recommended determination from Region 10 to EPA Headquarters until after a final Environmental Impact Statement ("EIS") has been completed by the Corps, so long as that EIS is completed by May 2021. I believe that it is critical for the Agency to participate in the EIS process and review the final EIS in detail before determining whether to proceed with the section 404(c) process in this case.

* * *

EPA's historical interpretation of its statutory authority and its current regulatory framework applies the same procedures notwithstanding whether a permit application has been filed or a permit issued. **I am concerned that the mere potential of EPA's use of its section 404(c) authority before or after the permitting process could influence investment decisions and chill economic growth by short-circuiting the permitting process. Although the Corps can process a permit application and conduct a NEPA analysis while a section 404(c) action is ongoing, it cannot issue a permit. Moreover, the short timeframes in EPA's existing regulations allow the Administrator to issue a final determination restricting the specification of a site as a disposal site within just a few months' time from the start of the process. I am also concerned that under current regulations, EPA could issue a final determination without the benefit of full information about the project for which a permit is sought, the proposed disposal areas, and the environmental impacts of those activities.**

Accordingly, I direct the Office of Water to prepare a proposal for submission to the Office of Management and Budget within four months from the date of this directive that proposes to consider, at a minimum, the following changes to EPA's regulations that would govern the future use of EPA's section 404(c) authority and seek public comment thereon:

- Eliminating the authority to initiate the section 404(c) process before a section 404 permit application has been filed with the Corps or a State, otherwise known as the "preemptive veto."

- Eliminating the authority to initiate the section 404(c) process after a permit has been issued by the Corps or a State, otherwise known as the "retroactive veto."

- Requiring a Regional Administrator to obtain approval from EPA Headquarters before initiating the section 404(c) process.

- Requiring a Regional Administrator to review and consider the findings of a final Environmental Assessment or Environmental Impact Statement prepared by the Corps or a State before preparing and

AMERICAN OVERSIGHT

publishing notice of a proposed determination.

- Requiring the Agency to publish and seek public comment on a final determination before such a determination takes effect.

Changing the current regulations would help to ensure that EPA exercises its extraordinary authority under section 404(c) in a careful, predictable, and prudent manner. The guiding principle should be to provide landowners, developers, and entrepreneurs with certainty that EPA will not short-circuit the permitting process and will consider all available information, including the results of an EIS, before taking any steps to veto a permit application. Adopting these changes would further EPA's core mission of protecting human health and the environment while improving predictability and regulatory certainty. The Office of Water shall begin preparing a regulatory proposal forthwith that includes these proposed changes for review and public comment.

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

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[1] *See* U.S. EPA, Chronology of 404(c) Actions, *available at* https://www.epa.gov/cwa-404/chronology-404c-actions.

AMERICAN OVERSIGHT

Message

From: Andy Sabin Ex. 6 Personal Privacy (PP)
Sent: 7/30/2019 7:40:29 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Brent Fewell [brent.fewell@earthandwatergroup.com]
Subject: Sabin Pebble Points , Hi Matt
Attachments: Sabin Pebble Points.docx

Hi Matt
It was a pleasure meeting you and your team in DC, Here are some more thoughts .
Public opinion in Alaska has 65-75% of the people there against the mine. As you know I own a silver mine in Canada and have no objection to mining in safe places. Funny example unrelated if you were in the real estate business and I came to you with no real backers and never had a nickel of Cash flow , Would you give me a permit for a 2 billion dollar building no one wanted in their neighborhood to allow to then peddle the permit to raise financing. Also knowing any major environmental catastrophe could not be cleaned up for any amount of money. Sorry about my passion but being in the business for 51 years and having traveled to 106 countries I've seen a few things like the devastation of the Fly River in New Guinea from a gold mine. Going back to Tuna Fishing, Have a great day.

Sent from my iPad

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Pebble Mine Points

I'm pro-mine and believe that most, with proper conditions, can be developed and operated with acceptable environmental impacts. Not done properly, however, or located where the environmental challenges are too great to be overcome through economically possible engineering, the adverse impacts can last in geologic time.

The Pebble deposit is a very large copper, gold, and molybdenum deposit in the Bristol Bay region of Southwest Alaska, near Lake Iliamna and Lake Clark.

Starting in 1988, four major international mining companies, Cominco, Rio Tinto, Anglo American, and Mitsubishi Corporation, have invested in the Pebble mine project. Each has failed to come up with a mining plan they can do economically that would also be safe. Each one in turn has walked away from the project and their investment.

Northern Dynasty Minerals and its subsidiary, Pebble Partners Limited, is a junior Canadian mining company. It generates no income of its own and depends completely on speculative investment.

The Pebble deposit rests underneath the headwaters of the Kvichak and Nushagak Rivers. These two rivers produce a quarter of the world's Sockeye Salmon population, and the Nushagak is the world's largest producer of King Salmon. Attempting to develop this mine on the cheap risks major environmental problems that could devastate Bristol Bay fisheries and rank among the world's worst environmental disasters.

Formal comments from the State of Alaska and cooperating federal agencies have been scathing:

- The State of Alaska's 96 pages - *"Although much of the information the state has provided the USACE previously has been incorporated into the DEIS, further work is necessary to ensure potential effects to the human environment from each alternative are adequately evaluated and described in the [final environmental impact statement]."* And, "*While the DEIS does attempt to describe direct impacts to fish and fish habitat, it minimizes or ignores indirect, long- term impacts on downstream resources and habitat.*"

- The Environmental Protection Agency's two letters totaling nearly 200 pages, which cite multiple instances where the Corps did not use available data to evaluate fully how Pebble could affect Bristol Bay's wetlands, streams and salmon fishery. The comments say the DEIS likely "*underpredicts*" the impacts Pebble could have on water quality, salmon and air quality, and does not "*support a reasonable judgment*" that the project will comply with the Clean Water Act and that Pebble may have "*substantial and unacceptable adverse impacts*" on fisheries in Bristol Bay.

- The National Marine Fisheries Service's comments - "*The DEIS and draft EFH Assessment's descriptions of the Pebble project are inconsistent, highly variable, and*

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lack a complete portrayal of the entire foreseeable project over the life of the proposed mine and post-mine closure operations."

- The Department of Interior's comment letter (81 pages including attachments) –
  - "*After thorough review, we believe the DEIS has major outstanding issues related to an overreliance on qualitative, subjective, and unsupported conclusions.*"
  - *"Based on these identified deficiencies, the DEIS is so inadequate that it precludes meaningful analysis."* and,
  - *"In summary, the DEIS does not fully discuss the potential impacts of the proposed mining activity on DOI-managed resources and lacks a number of important analyses that are necessary to adequately assess the project. Therefore, we recommend that the USACE prepare a revised or supplemental DEIS to resolve the significant gaps in the current document."*

The detailed agency comments are actually kinder than those from the many public subject-matter experts who have filed formal comments regarding the inadequacy of the DEIS.

Shoddy natural resource development makes it far harder to do responsible development. It strengthens and emboldens environmental organizations and creates new voters influenced by environmental issues.

If there is a problem, the Trump Administration will be squarely blamed for it because of the Army's Corps' rushed and defective Draft Environmental Impact Statement.

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From: Microsoft Outlook[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MICROSOFTEXCHANGE329E71EC88AE4615BBC36AB6CE41109EF7088051]

Location: 4000

Importance: Normal

Subject: Meeting Forward Notification: Pebble Notice

Start Time: Thur 7/25/2019 5:00:00 PM (UTC)

End Time: Thur 7/25/2019 6:00:00 PM (UTC)

Required Attendees: Leopold, Matt (OGC)

Your meeting was forwarded

Fotouhi, David has forwarded your meeting request to additional recipients.

Required Attendees: Leopold, Matt (OGC)

Meeting

Pebble Notice

Required Attendees: Leopold, Matt (OGC)
Required Attendees: Leopold, Matt (OGC)

Meeting Time

Thursday, July 25, 2019 1:00 PM-2:00 PM.

Required Attendees: Leopold, Matt (OGC)
Required Attendees: Leopold, Matt (OGC)

Recipients

Fotouhi, David

Required Attendees: Leopold, Matt (OGC)

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

AMERICAN OVERSIGHT

To: Quality[Quality@epa.gov]
Cc: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Tim Stephens[Ex. 6 Personal Privacy (PP)]
Sent: Fri 5/24/2019 6:54:26 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

Typo *RFC was filed 11.15.2018*.
Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:

-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses) Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:

Kindly following up.
Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:

Hello,
As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

--
-Tim S

--
-Tim S

--
-Tim S

--
-Tim S

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To: Quality[Quality@epa.gov]
Cc: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Tim Stephens [Ex. 6 Personal Privacy (PP)]
Sent: Fri 5/24/2019 6:12:42 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

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> >
> > Thank you.
> >
> > --
> > -Tim S
>
> --
> -Tim S

--
-Tim S

AMERICAN OVERSIGHT

Message

From: Thomas Allen [thomas@markeallenlaw.com]
Sent: 7/23/2019 2:08:38 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: RFC 19001

Please lift the illegal PD on Pebble to give the mine a fair shot at permitting. Isn't that what the settlement was all about lol?

Thomas D. Allen
Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

AMERICAN OVERSIGHT

To: Ex. 6 Personal Privacy (PP)
From: Thoma, Connie[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F82210594DAB42B7BDEA762174E97460-THOMA, CONNIE]
Sent: Wed 6/19/2019 3:00:48 PM (UTC)
Subject: RE: RFC 19001-Bristol Bay

Mr. Stephens,

There are federal and agency requirements for processing a PDF to post it to the Internet – that processing can change properties information.
The delay in posting was an unintentional deviation from our normal process of posting within a few business days of communicating it to the requestor.

As there is not substantive information conveyed in interim responses due to the ongoing consideration, the administrative mangers of the Information Quality Guidelines response process are considering substituting an alternative to posting the PDF–that provides information at a glance for interested parties and streamlines web content.

Thank you for the interest in the quality of information disseminated by the agency.

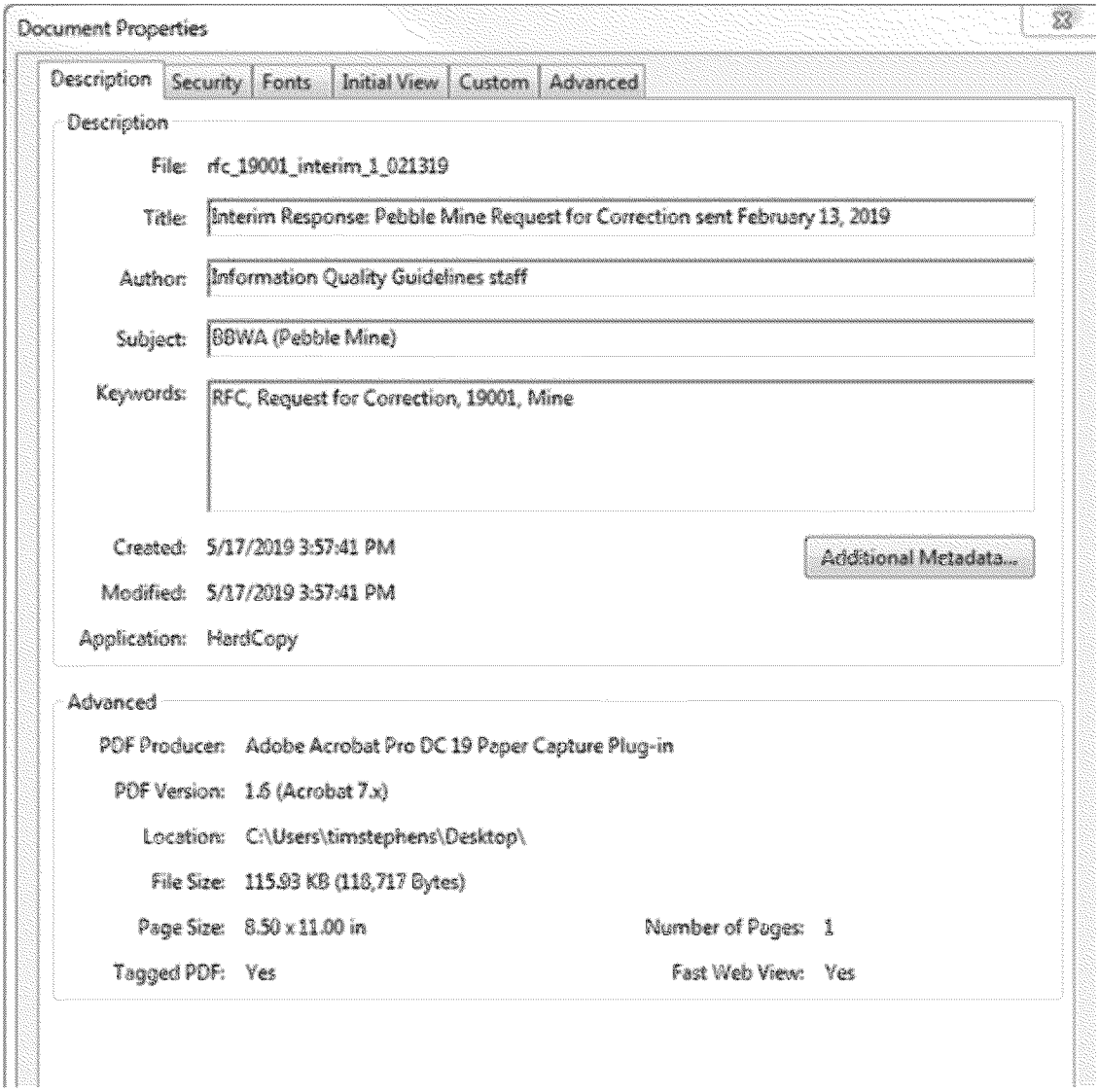
Connie F. Thoma

U.S. Environmental Protection Agency
Office of Mission Support
Environmental Information's Office of Enterprise Information Programs
Enterprise Quality Management Division
https://www.epa.gov/quality

From: Tim Stephens Ex. 6 Personal Privacy (PP)
Sent: Monday, June 17, 2019 4:49 PM
To: Quality <Quality@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Re: RFC 19001-Bristol Bay

PDF properties show this PDF wasn't even created until 5.17.2019. Again, when there is a response will there be another 3 month delay for it to be published?

AMERICAN OVERSIGHT



On Thu, Jun 6, 2019 at 1:02 PM Tim Stephens <tburkestephens@gmail.com> wrote:
Would appreciate a response.

Thank you.

On Tue, Jun 4, 2019 at 3:34 PM Tim Stephens <tburkestephens@gmail.com> wrote:
Respectfully following up.

On Fri, May 24, 2019 at 1:54 PM Tim Stephens <tburkestephens@gmail.com> wrote:
Typo *RFC was filed 11.15.2018*.

Thanks in advance.

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AMERICAN OVERSIGHT

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On Mon, May 20, 2019 at 4:44 PM Tim Stephens <tburkestephens@gmail.com> wrote:
Hello,

As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

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AMERICAN OVERSIGHT

To: Strassel, Kim[kim.strassel@wsj.com]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]; Ferguson, Lincoln[ferguson.lincoln@epa.gov]; Leopold, Matt[Leopold.Matt@epa.gov]
From: Wilcox, Jahan[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]
Sent: Thur 1/25/2018 2:34:46 PM (UTC)
Subject: Bristol Bay/Pebble Mine

Kim -

Below is the release that we are hoping to send out this afternoon (3:00 PM ET), but we can be flexible to hopefully let you break this news first. We will try to call you at 10:00 AM with our general counsel to help answer additional questions you might have on this.

Jahan

EPA Administrator Pruitt Upholds Due Process and the Rule of Law

EPA decides not to withdraw proposed Clean Water Act restrictions for Pebble Mine in Alaska's Bristol Bay watershed

WASHINGTON – After receiving more than one million comments from the public and consulting with tribal governments and other stakeholders, the U.S. Environmental Protection Agency (EPA) has decided not to withdraw the July 2014 Clean Water Act Proposed Determination for the development of a copper and gold mine at the Pebble deposit in Alaska's Bristol Bay watershed.

"Today's decision first and foremost upholds the rule of law and due process," **said EPA Administrator Scott Pruitt**. "It gives all parties additional time to determine how best to move forward on the Pebble Mine after extensive environmental analysis, as required under the regular permitting process."

Today's decision means that the permit review process for Pebble Limited Partnership (PLP) will continue, while EPA continues to work with federal, state, and tribal partners.

In December 2017, the PLP submitted a Clean Water Act Section 404 permit application to the U.S. Army Corps of Engineers (Army Corps) to develop a mine at the Pebble deposit. EPA stands ready to work closely with PLP, the Army Corps and other stakeholders on the review of this permit application, including the Army Corps' development of a robust Environmental Impact Statement (EIS) for the proposed mine that will ensure the world-class fisheries in the Bristol Bay region are protected.

EPA will not move forward with any action toward finalizing the Proposed Determination until after May 11, 2021, or the Army Corps complete a final EIS for the mine project, whichever comes first. This is in line with commitments EPA made in a May 2017 settlement agreement resolving outstanding lawsuits between PLP and EPA. If after May 11, 2021 or after a final EIS for the Pebble Mine is issued, the Agency decides to finalize its Proposed Determination, it could impose restrictions on the discharge of dredged or fill material associated with development of the Pebble Mine in Alaska's Bristol Bay watershed.

Throughout the course of this process, EPA has consulted with federally recognized tribal governments of the Bristol Bay region and Alaska Native Corporations with lands in the Bristol Bay watershed. The public comment period and tribal consultation process also allowed EPA to hear directly from the public. EPA will continue working with these groups as this process moves forward.

Background

In 2014, EPA's Region 10 completed an assessment of the Bristol Bay watershed and issued a Clean Water Act Section 404(c) Proposed Determination to restrict discharges of dredge or fill material into the watershed from mining the Pebble deposit. Section 404 is the part of the Clean Water Act that governs the permit evaluation process for actions that discharge dredged or fill material into waters of the United States. This action was controversial because EPA has almost never exercised this authority before a permit application was filed with the Corps, and many felt it effectively blocked PLP from applying.

EPA agreed to initiate a process to propose to withdraw the Proposed Determination as part of a May 11, 2017 settlement

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agreement with PLP, whose subsidiaries own the mineral claims to the Pebble deposit. The agreement provides Pebble additional time to apply for a Clean Water Act 404 permit from the U.S. Army Corps of Engineers before EPA moves any further with its Clean Water Act Section 404(c) review. PLP has now filed its application with the Corps, and the Corps will review that application, with EPA's continuing advice.

Additional information: www.epa.gov/bristolbay
###

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: Ex. 6 Personal Privacy (PP)
Work Email: wilcox.jahan@epa.gov

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To: Quality[Quality@epa.gov]
Cc: Leopold, Matt (OGC)[Leopold.Matt@epa.gov]
From: Tim Stephens Ex. 6 Personal Privacy (PP)
Sent: Thur 6/6/2019 6:02:09 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

Would appreciate a response.
Thank you.

On Tue, Jun 4, 2019 at 3:34 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:

Respectfully following up.

On Fri, May 24, 2019 at 1:54 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:

Typo *RFC was filed 11.15.2018*.
Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:

-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses) Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:

Kindly following up.
Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:

Hello,
As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

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Message

From: Thomas Allen [thomas@markeallenlaw.com]
Sent: 7/27/2019 2:13:05 AM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Tom Allen - RFC 19001 - Pebble Mine

Mr. Leopold,

Didn't the 25 day deadline just pass for the will affect letter in the elevation process? Correct me if I'm wrong. Also what is going on with the PD? I still have yet to hear from you once. I'm not asking for non public information, I'm just asking why the illegal PD is still in place and why RFC 19001 still has yet to be responded to. Have a good weekend sir.

Respectfully,
Tom Allen

Sent from my iPhone

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Message

From: Thomas Allen [thomas@markeallenlaw.com]
Sent: 6/12/2019 4:09:30 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: RFC 19001

Mr. Leopold,

Please resume the veto lift process over the Pebble Mine that was suspended. It is unjust and Pebble deserves a fair chance in permitting like any other mine. That is all.

Respectfully,
Tom Allen

Holdsworth and Allen, P.C.
Westowne 2, Suite 106
P.O. Box 126
Liberty, Missouri 64069
Phone: (816) 781-5905
Fax: (816) 781-3054
Email: thomas@markeallenlaw.com

Office Hours:
Monday through Thursday: 8:00 a.m. until 5:00 p.m.
Fridays: By appointment only

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About EPA's Decision Not to Withdraw Proposed Clean Water Act Restrictions on Mining Pebble Deposit

On this page:

- Summary
- Public hearings
- Public comments

Summary

In 2014, EPA issued a Clean Water Act Section 404(c) Proposed Determination that would, if finalized, restrict the discharge of dredged or fill material in the Bristol Bay watershed related to mining the Pebble copper and gold deposit. In a May 11, 2017, settlement agreement resolving outstanding lawsuits between EPA and the Pebble Limited Partnership, EPA agreed to initiate a process to propose to withdraw the Proposed Determination by July 11, 2017.

In July 2017, EPA solicited public comment on whether to withdraw the Proposed Determination, and whether the Administrator should review the withdrawal decision if such a decision is made. Comments were due on October 17, 2017 (see Public Comments below).

After hearing directly from stakeholders and the people of Alaska, EPA is suspending its process to withdraw the Proposed Determination, leaving it in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources.

EPA intends to solicit additional public comment on the impact of the Pebble Limited Partnership's December 2017 mining application on the existing Proposed Determination.

Related information

- Federal Register notice on EPA's decision not to withdraw Proposed Determination - February 28, 2018
- EPA's press release - January 26, 2018
- Federal Register notice announcing public hearings on EPA's proposal - September 21, 2017
- Federal Register notice on EPA's proposal to withdraw Proposed Determination - July 19, 2017

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EPA-WH-TA-G-000643
Bristol Bay/Pebble Mine 2019
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- EPA's press release - July 11, 2017

Public Hearings

The EPA held two public hearings on its 2017 proposal to withdraw proposed Clean Water Act restrictions on mining the Pebble Deposit. Public hearings were held in Dillingham, Alaska, on October 11, 2017 and in Iliamna, Alaska, on October 12, 2017.

Public Comments

The comment period on EPA's 2017 proposal to withdraw proposed Clean Water Act restrictions on mining the Pebble Deposit closed October 17, 2017.

Public comments submitted to the docket can be viewed at the Federal eRulemaking Portal:
Visit regulations.gov (docket ID: EPA-R10-OW-2017-0369).

LAST UPDATED ON FEBRUARY 28, 2018

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EPA-WSTC1A-G-000644
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EPA suspends withdrawal of proposed restrictions on mining in Bristol Bay watershed

- Read EPA's press release (Jan. 26, 2018)
- Read the Federal Register notice

1 2

U.S. Army Corps of Engineers Review of Pebble Mine Permit Application

The U.S. Army Corps of Engineers is reviewing a Clean Water Act permit application from the Pebble Limited Partnership and has started the Environmental Impact Statement (EIS) process under the National Environmental Policy Act. The Corps is the lead agency to develop the EIS, and EPA is a cooperating agency. The Corps initiated a public scoping of the EIS on April 1, 2018, and issued a Draft EIS for public review in February 2019. **The public comment period runs from March 1 through May 30, 2019**.

For more information, visit the Corps' Pebble Project EIS website. EXIT

EPA Suspends Withdrawal of Proposed Determination

After hearing directly from stakeholders and the people of Alaska, EPA is suspending its process to withdraw proposed restrictions on mining in Bristol Bay. Learn more about EPA's decision not to withdraw proposed restrictions.

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2017 Settlement Agreement

In May 2017, EPA entered into a settlement agreement with the Pebble Limited Partnership to resolve litigation from 2014 relating to EPA's prior work in the Bristol Bay watershed.

Read the settlement agreement
Read EPA's press release (May 12, 2017)

2014 Proposed Determination

In July 2014, EPA Region 10 initiated a process to protect one of the world's most valuable salmon fisheries, in Bristol Bay, Alaska, from the risks posed by a mine at the Pebble deposit.

Read the Executive Summary and Proposed Determination
View all public comments on the proposal (links to docket on regulations.gov)

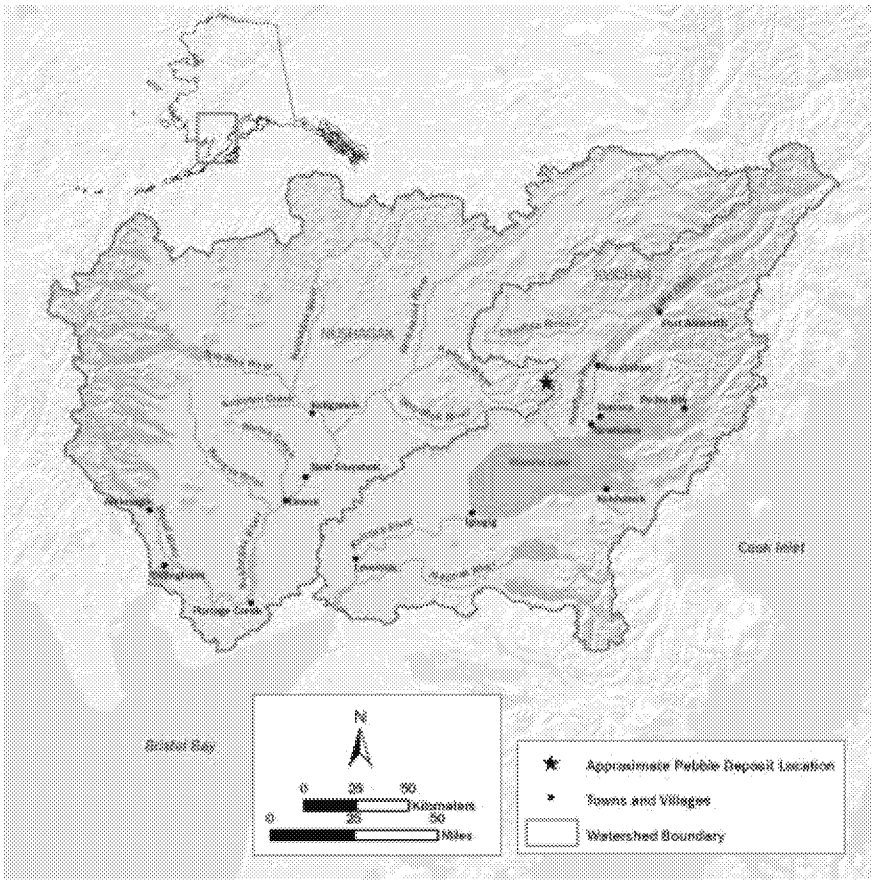
2014 Bristol Bay Assessment

In January 2014, EPA issued its final assessment of the potential impacts of large-scale mining development on Bristol Bay fisheries and wildlife, and on Alaska Native cultures of the region.

Bristol Bay Assessment - Final Report (2014)
Learn more about our assessment

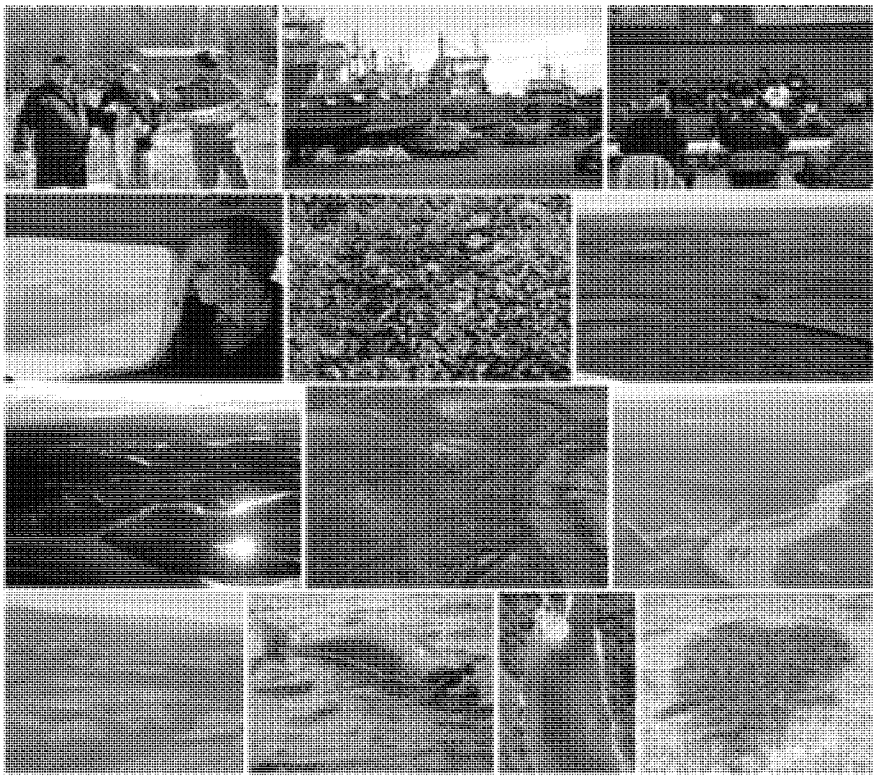
Watershed map

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EPA is proposing to protect Bristol Bay's fishery from potential mining impacts within the Kvichak and Nushagak River watersheds.

Bristol Bay photos



View EPA's Bristol Bay photos on Flickr EXIT

LAST UPDATED ON MARCH 1, 2019

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News Releases from Region 10

EPA Administrator Scott Pruitt Suspends Withdrawal of Proposed Determination in Bristol Bay Watershed, Will Solicit Additional Comments

01/26/2018

Contact Information:
(press@epa.gov)

WASHINGTON (January 26, 2018) – Today, U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt is following through on his promise to restore the rule of law and process to the previous Administration's action to restrict mining in Bristol Bay, Alaska.

As a result of Administrator Pruitt's actions last summer, proponents of mining in the region were allowed to apply for a permit with the U.S. Army Corps of Engineers. Today, after hearing directly from stakeholders and the people of Alaska, EPA is suspending its process to withdraw those proposed restrictions, leaving them in place while the Agency receives more information on the potential mine's impact on the region's world-class fisheries and natural resources.

"We have restored process, reviewed comments, and heard from a variety of stakeholders on whether to withdraw the proposed restrictions in the Bristol Bay watershed," **Administrator Scott Pruitt said.** "Based on that review, it is my judgment at this time that any mining projects in the region likely pose a risk to the abundant natural resources that exist there. Until we know the full extent of that risk, those natural resources and world-class fisheries deserve the utmost protection. Today's action allows EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources."

This decision neither deters nor derails the application process of Pebble Limited Partnership's proposed project. The project proponents continue to enjoy the protection of due process and the right to proceed. However, their permit application must clear a high bar, because EPA believes the risk to Bristol Bay may be unacceptable.

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Bristol Bay/Pebble Mine 2019
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EPA intends to solicit additional public comment on the impact of the mining application on the existing proposed determination to better inform that analysis.

Background

In 2014, the Obama Administration issued what was widely considered a preemptive veto of the Pebble Limited Partnership mining project. This effectively brought the mine's application process and, more importantly, due process to a halt. Litigation resulted and continued into this Administration.

In May of 2017, Administrator Pruitt took the first step to rescind this due process denial and allow the Pebble mine proponents to proceed and progress through the process. EPA received over one million comments from interested stakeholders. Administrator Pruitt's action allowed the litigation to be resolved and the proponent's application was allowed to finally move forward. That application is proceeding through the Army Corps's permitting process.

Today's action is important for several reasons. First, EPA has serious concerns about the impacts of mining activity in the Bristol Bay Watershed. From public comments to community meetings, stakeholders stressed the importance of balancing a singular mine venture with the risk to one of the world's largest commercial fisheries. Second, for EPA not to express an environmental position at this stage would be disingenuous.

This action demonstrates the Agency's commitment to both the rule of law and process, and upholding the EPA's core mission of environmental stewardship.

For more information and to read a copy of today's announcement in a pre-publication Federal Register Notice, visit: https://www.epa.gov/bristolbay.

LAST UPDATED ON JANUARY 26, 2018

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News Releases from Headquarters

EPA and Pebble Limited Partnership Reach Settlement Agreement

EPA Agrees to Allow Permit Process to Proceed; Pebble Agrees to Drop Lawsuits

05/12/2017

Contact Information:
U.S. EPA Media Relations (press@epa.gov)

WASHINGTON --The US Environmental Protection Agency entered into a settlement agreement with the Pebble Limited Partnership to resolve litigation from 2014 relating to EPA's prior work in the Bristol Bay watershed in Alaska. The settlement provides the Pebble Limited Partnership (Pebble) an opportunity to apply for a Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers before EPA may move forward with its CWA process to specify limits on the disposal of certain material in connection with the potential "Pebble Mine."

"We are committed to due process and the rule of law, and regulations that are 'regular'," said EPA Administrator Scott Pruitt. "We understand how much the community cares about this issue, with passionate advocates on all sides. The agreement will not guarantee or prejudge a particular outcome, but will provide Pebble a fair process for their permit application and help steer EPA away from costly and time-consuming litigation. We are committed to listening to all voices as this process unfolds.

Key Terms of the Settlement:

- Pebble and the U.S. Department of Justice (on behalf of the EPA) will ask the U.S. District Court for the District of Alaska to dismiss the cases with prejudice and to lift the court-ordered preliminary injunction.

- EPA agrees to commence a process to propose to withdraw the currently pending proposed determination, consistent with its regulations.

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Bristol Bay/Pebble Mine 2019
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- EPA agrees that it will not move to the next step in its CWA process, which would be to issue a recommended determination (determination steps are: proposed, recommended, final), until 48 months from settlement or until the U.S. Army Corps of Engineers issues its final environmental impact statement, whichever comes first. To take advantage of this period of forbearance, Pebble would have to file its permit application within 30 months.

- Pebble will drop its lawsuits and requests for fees against EPA, and agree to file no new Freedom of Information Act (FOIA) requests during the pendency of the "forbearance" period.

- EPA may use its scientific assessment regarding the Bristol Bay Watershed without limitation.

Background:

In 2014, under the previous administration, EPA's Region 10 completed a multi-year watershed assessment in Bristol Bay, and then issued a CWA Section 404(c) proposed determination, which described restrictions on large-scale mining in the watershed. Section 404 is the part of the CWA that governs the permit evaluation process for actions that discharge dredged or fill material into a covered water.

The May 11, 2017 settlement does not guarantee or prejudge any particular outcome to this process, but does ensure that the process will be carried out in a fair, transparent, deliberate, and regular way.

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LAST UPDATED ON MAY 12, 2017

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News Releases from Region 10

EPA proposes to withdraw Clean Water Act restrictions for Pebble Mine in Alaska's Bristol Bay watershed

90-day public comment period

07/11/2017

Contact Information:
Suzanne Skadowski (skadowski.suzanne@epa.gov)
206-553-2160

The U.S. Environmental Protection Agency is proposing to withdraw its July 2014 Clean Water Act Proposed Determination that would, if finalized, have imposed restrictions on the discharge of dredged or fill material associated with the potential "Pebble Mine" in Alaska's Bristol Bay watershed. EPA is seeking public comment on whether to withdraw the Proposed Determination.

EPA is consulting on the proposed withdrawal with federally-recognized tribal governments of the Bristol Bay region and with Alaska Native Claims Settlement Act Regional and Village Corporations with lands in the Bristol Bay watershed. The public comment and tribal consultation process allows EPA to hear from the public before final decisions are made. After the close of the public comment and tribal consultation process, the EPA will decide whether to issue a final withdrawal of the 2014 Proposed Determination. EPA is also requesting public comment on whether the EPA Administrator should review and reconsider a final withdrawal decision, if such a decision is made.

Public Comment Information

Public comments on EPA's proposals must be received on or before 90 days from the date of publication of the Federal Register Notice. Comments may be emailed to: ow-docket@epa.gov with docket number EPA-R10-OW-2017-0369 in the email subject line.

For more information, including the pre-publication Federal Register Notice announcing this public

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EPA-19-PCV-G-000053
Bristol Bay/Pebble Mine 2019
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comment period, visit: https://www.epa.gov/bristolbay.

Background

In 2014, EPA's Region 10 completed a multi-year effort to assess the Bristol Bay watershed, and then issued a Clean Water Act Section 404(c) Proposed Determination to restrict discharges of dredge or fill material into the watershed from mining the Pebble deposit. Section 404 is the part of the Clean Water Act that governs the permit evaluation process for actions that discharge dredged or fill material into waters of the United States. EPA agreed to initiate a process to propose to withdraw the Proposed Determination as part of a May 11, 2017 settlement agreement with the Pebble Limited Partnership, whose subsidiaries own the mineral claims to the Pebble deposit. The agreement provides Pebble additional time to apply for a Clean Water Act 404 permit from the U.S. Army Corps of Engineers before EPA moves any further with its Clean Water Act Section 404(c) review.

LAST UPDATED ON JULY 11, 2017

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Frequently Asked Questions about Bristol Bay 404c Process

Related Information

- Frequently asked questions about Bristol Bay Assessment

Why is EPA proposing action to protect Bristol Bay?
What does the science say about Bristol Bay?
How could mining the Pebble Deposit affect the Bristol Bay salmon fishery?
What does the proposed determination say?
How often has EPA used this authority? Is it common?
What is Section 404 of the Clean Water Act?
What is EPA's review process under Section 404(c)?

Q: Why is EPA Region 10 proposing action to protect Bristol Bay?
A: EPA Region 10 is proposing this action because the Clean Water Act requires the agency to protect the nation's waters, including the protection of fisheries. The Bristol Bay watershed is an area of exceptional ecological value with salmon fisheries unrivaled anywhere in North America. Development of a mine at the Pebble deposit would result in one of the largest open pit copper mines in the world and would threaten this valuable resource.

Simply put, this will be a uniquely large mine in a uniquely important place.

The region's streams, wetlands, lakes and ponds provide intact habitat that support all five species of Pacific salmon found in North America: coho, Chinook, sockeye, chum, and pink. The salmon populations are critical to the health of the entire ecosystem, which is home to more than 20 fish species, 190 bird species, and more than 40 terrestrial mammal species, including bears, moose, and caribou.

Bristol Bay supports commercial, subsistence, and recreational fisheries that are worth hundreds of millions in economic yield each year and create thousands of jobs. Bristol Bay's fishery resources have supported a subsistence-based way of life for Alaska Natives for over 4,000 years.

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EPA-19-0131-G-000653
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Bristol Bay/Pebble Mine 2019
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After careful consideration of available science in the recently completed multi-year Bristol Bay Watershed Assessment and other available information, including extensive materials provided by the Pebble Limited Partnership, EPA Region 10 decided to proceed under its Clean Water Act Section 404(c) regulations to protect Bristol Bay resources from the adverse environmental effects of mining the Pebble deposit in southwest Alaska.

Q: What does the science say about Bristol Bay?
A: In January 2014, EPA Region 10 completed an independently-peer reviewed, multi-year Bristol Bay Watershed Assessment. This science report looked at not only the importance of the Bristol Bay watershed, but also analyzed the impacts of mining the pebble deposit. It found that the Bristol Bay watershed was pivotal and unique. Key findings on Bristol Bay's productivity include:

- Bristol Bay supports the largest sockeye salmon run in the world, producing approximately 46 percent of the world's wild sockeye.
- The Bristol Bay region is home to 31 Alaska Native Villages. Residents of the area depend on salmon both as a major food resource and for their economic livelihood. Nearly all residents participate in subsistence fishing.
- The annual average run of sockeye in Bristol Bay was approximately 37.5 million fish between 1990 and 2010. In 2009, Bristol Bay's wild salmon ecosystem generated $480 million in economic activity and provided employment for over 14,000 full and part-time workers.
- All five species of Pacific salmon spawn and rear in the Bristol Bay watershed: coho, Chinook, sockeye, chum and pink. In addition, the Nushagak River supports one of the world's largest Chinook salmon runs.
- The Bristol Bay watershed provides habitat for 29 fish species, more than 190 bird species, and more than 40 terrestrial animals.
- Bristol Bay supports large carnivores such as brown bears, bald eagles, and wolves that depend on salmon; ungulates such as moose and caribou; and numerous waterfowl species. The salmon in the watershed provide essential nutrients that support the ecosystem.

Q: How could mining the Pebble Deposit affect the Bristol Bay salmon fishery?
A: Northern Dynasty Minerals is the sole owner of the Pebble Limited Partnership and controls the mining claims surrounding the Pebble deposit. Based on information provided by Northern Dynasty Minerals to investors and the U.S. Securities and Exchange Commission, mining the Pebble deposit is likely to result in:

- **A mine pit nearly as deep as the Grand Canyon.** EPA estimates the mine would require excavation of the largest open pit ever constructed in North America and would cover nearly 7 square miles at a maximum depth of over 3/4 of a mile. The maximum depth of the Grand Canyon is about one mile.
- **Mine waste that would fill a major football stadium up to 3,900 times**. This includes mine tailings and waste rock.
- **Massive mine waste impoundments that would cover approximately an additional 19 square miles** and waste rock piles covering nearly 9 square miles in an area with productive streams and wetlands, lakes and ponds important for salmon.
- **A mining operation that would cover an area larger than Manhattan.** This includes all three mine components EPA considered (mine pit, tailings impoundments, and waste rock piles).

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Bristol Bay/Pebble Mine 2019
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A mine would require additional infrastructure including a major transportation corridor, pipelines, and wastewater treatment plants. EPA Region 10 has prepared a conservative analysis of the footprint impacts of the proposed mine. It is based on a scenario much smaller than the mine proposed in the SEC filings from Northern Dynasty Minerals and does not include the impacts from the transportation corridor, pipelines, a large power plant or wastewater treatment facilities.

The unacceptable adverse effects identified by EPA Region 10 in the Proposed Determination are based on the construction and operation of a 0.25-billion-ton mine. This was the smallest of the three mine scenarios EPA analyzed and significantly smaller than the mines articulated to Northern Dynasty Minerals investors. The Pebble 0.25 mine scenario has been analyzed by EPA Region 10 based on peer review comments that EPA should evaluate the impacts from a mine equaling the median size porphyry copper mine worldwide, even though it is far smaller than the mine scenarios put forward to investors and the SEC by Northern Dynasty Minerals.

Q: What does the proposed determination say?
A: EPA Region 10's proposal to protect the Bristol Bay watershed outlines restrictions that would protect waters that support salmon in and near the Pebble deposit area. The restrictions of this proposal are for impacts associated with mining the Pebble deposit and will not affect other mining operations.

EPA Region 10 has initially concluded that mining the Pebble deposit would affect the South Fork Koktuli River, North Fork Koktuli River and Upper Talarik Creek watersheds. The proposed restrictions are outlined in a document called the Proposed Determination. The restrictions are based on the construction and operation of a 0.25-billion-ton mine. This was the smallest of the three mine scenarios EPA analyzed and significantly smaller than the mines articulated to Northern Dynasty Minerals investors.

EPA Region 10 proposes to restrict the discharge of dredged or fill material related to mining the Pebble deposit into waters within the mine claims held by Northern Dynasty Minerals' subsidiaries, including Pebble Limited Partnership, that fall within the watersheds draining the Pebble deposit. EPA Region 10 has found that the development of a 0.25-billion-ton mine or larger would create the following unacceptable adverse effects on fishery areas in the Bristol Bay watershed:

- **Loss of Streams:** The loss of five or more miles of streams with documented salmon occurrence (coho, Chinook, sockeye, chum, pink); or the loss of 19 or more miles of streams where salmon are not documented, but that are tributaries of streams with documented salmon occurrence
- **Loss of Wetlands, Lakes, and Ponds:** The loss of 1,100 or more acres of wetlands, lakes, and ponds that connect with streams with documented salmon occurrence or tributaries of those streams
- **Streamflow Alterations:** Streamflow alterations greater than 20 percent of daily flow in nine or more linear miles of streams with documented salmon occurrence

According to EPA records, losses of the nature and magnitude listed above would be unprecedented for the Clean Water Act Section 404 regulatory program in the Bristol Bay region, as well as the rest of Alaska and perhaps the nation.

Q: How often has EPA used this authority? Is it common?
A: The Clean Water Act generally requires a Section 404 permit from the U.S. Army Corps of Engineers before any person places dredged or fill material into streams, wetlands, lakes and ponds. The U.S. Army Corps of Engineers authorizes thousands of permits every year, and EPA works with

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the Corps and developers to resolve environmental concerns so projects can move forward. Under Section 404(c), EPA is authorized to prohibit or restrict fill activities if a project would have unacceptable adverse effects on fishery areas.

EPA has used its 404(c) authority sparingly, beginning the process in 30 instances and completing it only 13 times in the 42-year history of the Clean Water Act. EPA use of the authority has typically involved major projects with significant impacts on some of America's most ecologically valuable waters. EPA has used this authority to protect a valuable trout fishery in Colorado, commercial and recreational fish habitat in Virginia, sensitive areas of the Florida Everglades, and coastal wetlands in Louisiana that provide habitat for fish and wildlife.

Q: What is Section 404 of the Clean Water Act?
A: The Clean Water Act generally requires a permit under Section 404 from the U.S. Army Corps of Engineers before any person places dredge or fill material into wetlands, lakes and streams. Mining operations typically involve such activities and must obtain Clean Water Act Section 404 permits. Section 404 directs EPA to develop the environmental criteria the Army Corps uses to make permit decisions. It also authorizes EPA to prohibit or restrict fill activities if EPA determines such actions would have unacceptable adverse effects on fishery areas, shellfish beds, water supplies, wildlife, or recreational areas.

Q: What is EPA's review process under Section 404(c)?
A: The Multi-Step 404(c) Review Process is as follows:

- Step 1 – Consultation period with U.S. Army Corps of Engineers and owners of the site.
- Step 2 – Publication of Proposed Determination, including proposed prohibitions or restrictions on mining the Pebble deposit, in the Federal Register for public comment and one or more public hearings.
- Step 3 – Review of public comments and development of Recommended Determination by EPA Regional Administrator to Assistant Administrator for Water at EPA Headquarters in Washington, DC.
- Step 4 – Second consultation period with the Army Corps and site owners and development of Final Determination by Assistant Administrator for Water, including any final prohibitions or restrictions on mining the Pebble deposit.

The entire process typically takes about a year to complete.

LAST UPDATED ON SEPTEMBER 26, 2016

AMERICAN OVERSIGHT

To: Hewitt, James[hewitt.james@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Tue 7/3/2018 5:52:13 PM (UTC)
Subject: Re: Off-the-record ...

I'm here. I'll swing by your office.

Sent from my iPhone

On Jul 3, 2018, at 1:50 PM, Hewitt, James <hewitt.james@epa.gov> wrote:

Matt, are you in today? Kim Strassel is looking to write on this soon but would like to talk to someone. I understand David is out today.

From: Kim Strassel [mailto:kim.strassel@wsj.com]
Sent: Tuesday, July 3, 2018 1:20 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>
Subject: Re: Off-the-record ...

James,
I'm back from vacation and am going to write about this. But i'd like to talk to someone there about the Pebble portion of it. Could I get someone on the phone today? (I sent this to Jahan, but got and out-of-office notice). Thanks! Kim

On Mon, Jun 25, 2018 at 11:10 AM Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:
Kim –

Pruitt will be signing this today and we will be announcing it tomorrow. Would you like to break it first tonight? If that answer is yes, I will get you the official copy/text once it's signed.

MEMORANDUM

SUBJECT: Updating EPA's Regulations Implementing Clean Water Act Section 404(c)
FROM: E. Scott Pruitt, Administrator
TO: Distribution [AA for Water, General Counsel, Regional Administrators]

It is essential that the Environmental Protection Agency adhere to its core mission of protecting human health and the environment in a manner that is fully considered as well as consistent with the Agency's authority. When EPA uses its authority "preemptively" and without the benefit of the fully developed factual record or attempts to reimagine its authority in ways that diverge from statutory text or congressional intent, it diverts its attention from this core mission and engages in decision-making without a full understanding of the impacts of those decisions. To address this concern, at every opportunity I have directed the Agency to ensure predictability and regulatory certainty and take actions based upon a comprehensive understanding of the facts. These are the hallmarks of the proper exercise of administrative authority and due process under the law.

Today, I am directing the Office of Water to take another step toward returning the Agency to its core mission and providing regulatory certainty by **developing a proposal to change the regulations governing EPA's exercise of its authority under Clean Water Act section 404(c), which allows EPA to veto the issuance of permits by the U.S. Army Corps of Engineers ("Corps") or an approved State to discharge dredged or fill material at specified disposal sites**. These regulations were last revised nearly 40 years ago—at a time in our history when environmental safeguards and analytical methods were far less-developed than today. EPA's regulations should reflect today's permitting process and modern-day

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methods and protections, including the robust existing processes under the National Environmental Policy Act that already require federal agencies to consider the environmental and related social and economic effects of their proposed actions while providing opportunities for public review and comment on those evaluations. Any new regulations should seek to address significant concerns surrounding EPA's prior use of its veto authority before a permit application has been filed or after a permit has been issued. This long-overdue update to the regulations has the promise of increasing certainty for landowners, investors, businesses, and entrepreneurs to make investment decisions while preserving EPA's authority to restrict discharges of dredge or fill material that will have an unacceptable adverse effect on water supplies, recreation, fisheries, and wildlife.

Section 404 of the Clean Water Act regulates the discharge of dredged or fill material into waters of the United States by assigning differing roles to the Administrator and the Secretary of the Army. Section 404(a) empowers the Secretary of the Army, acting through the Army Corps of Engineers, to issue permits allowing for discharge of dredged or fill material at "specified disposal sites." States may assume administration of this program, as Michigan and New Jersey have done. Section 404(b) provides that the Corps or State shall specify each disposal site for each permit "subject to subsection (c)." EPA has developed guidelines for this process. Section 404(c) provides EPA with so-called veto authority. Specifically, section 404(c) authorizes the Administrator "to prohibit the specification (including withdrawal of the specification) of any defined area as a disposal site" as well as to "deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site . . . whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas."

In 1979—seven years after Congress enacted section 404—EPA promulgated regulations that established procedures for exercising authority under section 404(c). *See* 44 FR 58076 (Oct. 9, 1979). The regulations establish defined steps with specific associated criteria: EPA's Regional Administrators are given responsibility for initiating the 404(c) process, issuing a proposed determination, and preparing and transmitting to EPA Headquarters a recommended determination to prohibit, withdraw, deny, or restrict the specification of a site as a disposal site. The Administrator, upon receipt of a recommended determination and after consultation with the Corps or the State, has the authority to issue a final determination to affirm, modify, or rescind the recommendation determination. **EPA has issued 13 final determinations since 1972 at various stages in the permitting process, including two instances where the action extended to areas for which a permit application was not pending and other instances after a permit had been issued.**[1]

EPA has asserted since 1979 that its "section 404(c) authority may be exercised before a permit is applied for, while an application is pending, or after a permit has been issued." 44 FR at 58076; *see also* 40 C.F.R. § 231.1(c). Commenters at the time the regulations were proposed opposed the use of EPA's authority before a permit application had been received or after a permit had been issued by the Corps or State. 44 FR at 58077. EPA responded to concerns about the practical application of pre-permit use of 404(c) by noting that this approach will facilitate planning by developers and industry and "eliminate frustrating situations in which someone spends time and money developing a project for an inappropriate site and learns at an advanced stage that he must start over." *Id.* EPA also stated that while "the statute on its face clearly allows EPA to act after the Corps issued a permit," EPA "recognize[d] that where possible it is much preferable to exercise this authority before the Corps or state has issued a permit, and before the permit holder has begun operations." *Id.*

During the prior Administration, EPA proposed to restrict discharges of dredge and fill material associated with mining activity near Bristol Bay, Alaska, which drew significant public scrutiny. Before advocates of mining of the Pebble Deposit submitted a permit application to the Corps, EPA Region 10 undertook an ecological risk assessment of three mining scenarios of different sizes based on information submitted to the Securities & Exchange Commission. Region 10 then issued a Proposed Determination to restrict the

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discharge of dredged or fill material from mining of the Pebble Deposit for "the potential disposal site [defined as] the waters within the mine claims held by [Northern Dynasty Minerals] subsidiaries, including PLP [Pebble Limited Partnership], that fall within the [South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek] watersheds." PLP subsequently obtained a preliminary injunction that halted the section 404(c) process before Region 10 could determine whether to prepare a recommended determination to transmit to EPA Headquarters. In December 2017, PLP submitted a permit application to the Corps. Earlier this year, EPA suspended its proposed withdrawal of the proposed determination; EPA also committed not to send a recommended determination from Region 10 to EPA Headquarters until after a final Environmental Impact Statement ("EIS") has been completed by the Corps, so long as that EIS is completed by May 2021. I believe that it is critical for the Agency to participate in the EIS process and review the final EIS in detail before determining whether to proceed with the section 404(c) process in this case.

* * *

EPA's historical interpretation of its statutory authority and its current regulatory framework applies the same procedures notwithstanding whether a permit application has been filed or a permit issued. **I am concerned that the mere potential of EPA's use of its section 404(c) authority before or after the permitting process could influence investment decisions and chill economic growth by short-circuiting the permitting process. Although the Corps can process a permit application and conduct a NEPA analysis while a section 404(c) action is ongoing, it cannot issue a permit. Moreover, the short timeframes in EPA's existing regulations allow the Administrator to issue a final determination restricting the specification of a site as a disposal site within just a few months' time from the start of the process. I am also concerned that under current regulations, EPA could issue a final determination without the benefit of full information about the project for which a permit is sought, the proposed disposal areas, and the environmental impacts of those activities.**

Accordingly, I direct the Office of Water to prepare a proposal for submission to the Office of Management and Budget within four months from the date of this directive that proposes to consider, at a minimum, the following changes to EPA's regulations that would govern the future use of EPA's section 404(c) authority and seek public comment thereon:

- Eliminating the authority to initiate the section 404(c) process before a section 404 permit application has been filed with the Corps or a State, otherwise known as the "preemptive veto."

- Eliminating the authority to initiate the section 404(c) process after a permit has been issued by the Corps or a State, otherwise known as the "retroactive veto."

- Requiring a Regional Administrator to obtain approval from EPA Headquarters before initiating the section 404(c) process.

- Requiring a Regional Administrator to review and consider the findings of a final Environmental Assessment or Environmental Impact Statement prepared by the Corps or a State before preparing and publishing notice of a proposed determination.

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- Requiring the Agency to publish and seek public comment on a final determination before such a determination takes effect.

Changing the current regulations would help to ensure that EPA exercises its extraordinary authority under section 404(c) in a careful, predictable, and prudent manner. The guiding principle should be to provide landowners, developers, and entrepreneurs with certainty that EPA will not short-circuit the permitting process and will consider all available information, including the results of an EIS, before taking any steps to veto a permit application. Adopting these changes would further EPA's core mission of protecting human health and the environment while improving predictability and regulatory certainty. The Office of Water shall begin preparing a regulatory proposal forthwith that includes these proposed changes for review and public comment.

Jahan Wilcox
EPA
Strategic Communications Advisor
Work Cell: 202.309.0934
Work Email: wilcox.jahan@epa.gov

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[1] *See* U.S. EPA, Chronology of 404(c) Actions, *available at* https://www.epa.gov/cwa-404/chronology-404c-actions.

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To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Fri 5/24/2019 7:30:11 PM (UTC)
Subject: Fwd: RFC 19001-Bristol Bay

Another inquiry.

Sent from my iPhone

Begin forwarded message:

From: Tim Stephens <Ex. 6 Personal Privacy (PP)>
Date: May 24, 2019 at 2:54:26 PM EDT
To: Quality@epa.gov
Cc: leopold.matthew@epa.gov
Subject: Re: RFC 19001-Bristol Bay

Typo *RFC was filed 11.15.2018*.
Thanks in advance.

On Fri, May 24, 2019 at 1:12 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:

-The RFC was filed 11.15.2019.
-Follow up letter was sent to Administrator Wheeler 3.20.2019
-The EPA published a response on 5.20.2019.
-The interim response letter is dated 2.13.2019.

Per the policy and procedure for RFC, it states a response is to be issued within 90 days. 2.13.2019 is 90 days exactly from the date of the petition being filed, yet it was not published until 5.20.2019? (I check frequently for responses)
Did the EPA backdate this interim response or was it drafted and sent on 2.13.2019? If this was not backdated, is it to be expected there will be a lengthy delay to publish a response after the response is sent to the requester? Please let me know if this can be clarified.

Thank you.

On Wed, May 22, 2019 at 1:40 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:

Kindly following up.
Thank you.

On Mon, May 20, 2019 at 4:44 PM Tim Stephens <Ex. 6 Personal Privacy (PP)> wrote:

Hello,
As an investor in the Pebble project, I must question why the EPA's interim response regarding RFC 19001-Bristol Bay, dated 2.13.2019, was published today on 5.20.2019? I see the new lengthy deadline is dated for 6.29.2019. Can we expect the answer to again be hidden and not published until three months after submitted to the requester? Or will this be published in a timely manner?

Thank you.

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-Tim S

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-Tim S

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-Tim S

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-Tim S

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To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Wed 6/5/2019 3:00:51 PM (UTC)
Subject: Re: RFC 19001-Bristol Bay

Please report on the status of the responses to the inquiries when you have a chance.

Sent from my iPhone

On Jun 5, 2019, at 9:38 AM, Stachowiak, Robert <Stachowiak.Robert@epa.gov> wrote:

Hi Matt –

I got your note below. I understand that WLO is coordinating with OEI on the response here per your request, but please let me know if you need anything further in the interim. I will forward to Steve and Heidi.

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Acting Associate Deputy General Counsel
Office of General Counsel (2310A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Leopold, Matt (OGC)
Sent: Tuesday, June 04, 2019 5:40 PM
To: Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Subject: Fwd: RFC 19001-Bristol Bay

Sent from my iPhone
Begin forwarded message:

From: Tim Stephens < Ex. 6 Personal Privacy (PP) >
Date: June 4, 2019 at 4:34:13 PM EDT
To: Quality@epa.gov
Cc: leopold.matthew@epa.gov
Subject: Re: RFC 19001-Bristol Bay

Respectfully following up.

On Fri, May 24, 2019 at 1:54 PM Tim Stephens Ex. 6 Personal Privacy (PP) wrote:
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Thank you.

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Thank you.

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-Tim S

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-Tim S

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-Tim S

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-Tim S

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-Tim S

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To: Abboud, Michael[abboud.michael@epa.gov]
Cc: Hewitt, James[hewitt.james@epa.gov]; Molina, Michael[molina.michael@epa.gov]; Schiermeyer, Corry[schiermeyer.corry@epa.gov]; Konkus, John[konkus.john@epa.gov]
From: Leopold, Matt (OGC)[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: Mon 3/25/2019 4:05:03 PM (UTC)
Subject: RE: Recusal and Delegation of Authority

Thanks for the heads up.

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Abboud, Michael
Sent: Monday, March 25, 2019 12:04 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: RE: Recusal and Delegation of Authority

Matt –

Ex. 5 Deliberative Process (DP)

Call me if you have any questions.

Michael Abboud
U.S. Environmental Protection Agency
Office of Public Affairs
M: Ex. 6 Personal Privacy (PP)

From: Molina, Michael
Sent: Friday, March 22, 2019 5:33 PM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Konkus, John <konkus.john@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: FW: Recusal and Delegation of Authority

Monday is the plan. **Ex. 5 Deliberative Process (DP)**

MM

From: Molina, Michael
Sent: Friday, March 22, 2019 5:31 PM
To: Ex. 6 - Administrator ackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: Recusal and Delegation of Authority

Sir,

Attached is the signed updated Recusal and the complimentary Delegation of Authority pertaining to the Pebble Deposit Area.

MM

Michael D. Molina

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Deputy Chief of Staff
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972
Ex. 6 Personal Privacy (PP) c)

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