

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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August 10, 2020

The Honorable Sean O'Donnell
Acting Inspector General
Office of Inspector General
U.S. Department of Defense
4800 Mark Center Drive
Alexandria, VA 22350

Leslie C. Smith
Inspector General of the United States Army
Office of Inspector General
U.S. Army Corps of Engineers
7701 Telegraph Road
Alexandria, VA 22315

Dear Inspector General O'Donnell and Inspector General Smith:

We write to request that your offices investigate the U.S. Army Corps of Engineers' (Army Corps) environmental review of the sp dredge-and-fill permit application under Section 404 of the Clean Water Act and the National Environmental Policy Act (NEPA) for the proposed Pebble Mine project in Bristol Bay, Alaska.

The full development of the Pebble Partnership's proposed gold and copper mine in Alaska would be the largest in North America.¹ The proposed mine would be located within two watersheds that feed fish-spawning rivers, and critics of the mine have raised serious concerns about the proposed mine's environmental impact, including that the tailings left from mining operations would pose risks if heavy metals or other contaminants from them leach into groundwater or if dams holding back the tailings fail in an earthquake.²

In addition, despite the promise of economic contributions to state and local economies, a broad coalition of groups and individuals opposed the mine because of the environmental damage it would cause and the threat of a catastrophic failure of a dam that would store acidic mining waste. The area also supports the subsistence lifestyle of the region's residents, the

¹ *Trump Administration Says Massive Alaska Gold Mine Won't Cause Major Environmental Harm, Reversing Obama*, Washington Post (July 24, 2020) (online at www.washingtonpost.com/climate-environment/2020/07/24/pebble-mine-alaska-trump/).

² *The Risky Plan to Haul Minerals from a Mine in the Alaska Wilderness*, National Geographic (Jan. 14, 2020) (online at www.nationalgeographic.com/science/2020/01/risky-plan-to-haul-minerals-from-mine-in-alaskan-wilderness/).

largest commercial sockeye fishery in the world, a highly regarded sport fishery and a total salmon fishery that the Alaska Department of Fish and Game valued at \$306.5 million in 2019.³

The Committee is concerned that the Army Corps expedited the Clean Water Act permitting and NEPA review process at the expense of a thorough scientific review. It appears that this timeline is inappropriate for a hardrock mine of this scale, complexity, and potential regional and state environmental, social, and economic impacts—especially during the ongoing coronavirus pandemic.⁴ Even more concerning is that despite repeated pleas and requests from federal, state, local, and tribal cooperating agencies and stakeholders for a more comprehensive review process, it appears that the Army Corps set aside thorough scientific review in favor of an expedited permitting timeline. For example, Jason Metrokin, Chief Executive Officer of the Bristol Bay Native Corporation, whose group ranks as the region's largest private landowner and whose members account for the majority of the region's population, has said that the Army Corps ignored input from key experts and constituencies.⁵

On December 22, 2017, the Pebble Limited Partnership submitted an application to the Army Corps for authorization under the Clean Water Act and Section 10 of the River and Harbors Act.⁶ This application failed to include essential information regarding mine construction, operation, maintenance, and closure plans necessary to adequately develop an EIS under NEPA or conduct review under the Clean Water Act.⁷ On January 5, 2018—only eight business days after receiving the application – the Army Corps posted a public notice that the application had been received, thus signaling that the application was deemed complete.⁸

In 2019, the U.S. Environmental Protection Agency (EPA) abruptly dropped its opposition to the mine in order to allow the project to enter the NEPA permitting process. The

³ *Early Release of Pebble Mine Final EIS Triggers Barrage of Criticism From Native, Commercial Fishing, Sportfishing Groups*, NBC KTUU (July 24, 2020) (online at www.ktuu.com/2020/07/24/early-release-of-pebble-mine-final-eis-triggers-barrage-of-criticism-from-native-commercial-fishing-sportfishing-groups/).

⁴ *Rushing Pebble Mine Review During a Pandemic is Reckless*, Anchorage Daily News (Apr. 12, 2020) (online at www.adn.com/opinions/2020/04/12/rushing-pebble-mine-review-during-a-pandemic-is-reckless/).

⁵ *Trump Administration Says Massive Alaska Gold Mine Won't Cause Major Environmental Harm, Reversing Obama*, Washington Post (July 24, 2020) (online at www.washingtonpost.com/climate-environment/2020/07/24/pebble-mine-alaska-trump/).

⁶ *Pebble Project, US Army Corps of Engineers, Department of the Army, Application for Permit, POA-2017-271*, The Pebble Partnership (Dec. 2017), (online at <https://pebbleprojecteis.com/files/a4f5b9d3-7c40-4960-a30e-e50b2a61bd39>).

⁷ *Id.*

⁸ *Pebble Finally Files for Permits*, Alaska Journal of Commerce (Dec. 22, 2017) (online at www.alaskajournal.com/2017-12-27/pebble-finally-files-permits); *see also* U.S. Army Corps of Engineers Alaska Dist., Public Notice of Application Permit, POA-2017-271 (Jan. 5, 2018) (online at www.poa.usace.army.mil/Portals/34/docs/regulatory/publicnotices/2018/POA-2017-271%20Pebble_PN.pdf?ver=2018-01-05-153755-640).

project was previously blocked by EPA based on scientific findings that a mine would cause “complete loss of fish habitat due to elimination, dewatering, and fragmentation of streams, wetlands, and other aquatic resources” in some areas of the bay.⁹ This reversal appears to have been motivated by political influence and not by scientific analysis; it has been reported that EPA staff disclosed that this decision was made at EPA on June 27, 2019, a day after the President met with Alaska’s Governor Mike Dunleavy on Air Force One, which raises questions about whether EPA’s decision to withdraw the Proposed Determination was arbitrary and capricious.¹⁰

On July 24, 2020, the Army Corps of Engineers issued a final environmental impact statement (EIS) for the project. The Army Corps’ EIS states that the project would not result in “long-term changes in the health of the commercial fisheries in Bristol Bay.”¹¹ In a joint statement following the release of the final EIS, local leaders including United Tribes of Bristol Bay Director Alannah Hurley and Bristol Bay Native Association President Ralph Anderson stated that “the final EIS completely fails to adequately assess the impacts of Pebble on Bristol Bay’s waters, salmon and people.”¹² Further, critics have also stated that the final EIS does not significantly differ from the draft EIS, which received pointed criticism for ignoring the government’s own scientists as well as years of research findings.¹³ Collin O’Mara, President of the National Wildlife Federation, said “the science is overwhelmingly clear: The proposed Pebble Mine is a catastrophe waiting to happen.”¹⁴

While we recognize that this EIS is not a decision on whether the Pebble Partnership will ultimately receive the permits required to move forward with development, we are concerned about this document’s misuse in the Army Corps and U.S. Coast Guard permitting process moving forward, and that a permit could be issued as soon as 30 days after the final EIS—on August 23, 2020.

The Committee’s concerns are amplified by the extensive lobbying that Pebble Limited Partnership has expended on this project. In the first three quarters of 2019 alone, the company

⁹ *EPA Dropped Salmon Protection After Trump Met with Alaska Governor*, CNN (Aug. 9, 2019) (online at www.cnn.com/2019/08/09/us/epa-alaska-pebble-mine-salmon-invs/index.html).

¹⁰ *Id.*

¹¹ *Final EIS, Pebble Project, US Army Corps of Engineers, Department of the Army* (July 24, 2020) (online at <https://pebbleprojecteis.com/documents/finaleis>).

¹² *Pebble Gets the Green Light, No ‘Measurable Effect’ On Fishery*, E&E News (July 24, 2020) (online at www.eenews.net/greenwire/stories/1063621863).

¹³ *Critics Blast U.S. Study Finding Huge Alaskan Mine Poses Little Environmental Risk*, Science Magazine (July 24, 2020) (online at www.sciencemag.org/news/2020/07/critics-blast-us-study-finding-huge-alaskan-mine-poses-little-environmental-risk).

¹⁴ *Id.*

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spent at least \$1.22 million in lobbying expenses.¹⁵ It is also concerning that the Army Corps conducted its environmental review of the application on an unusually fast track, without sufficient attention to minimal scientific integrity standards and an alarming lack of transparency.¹⁶ This raises serious questions regarding the extent to which the Pebble Limited Partnership's spending on lobbying has influenced a process that should be immune from such pressures.

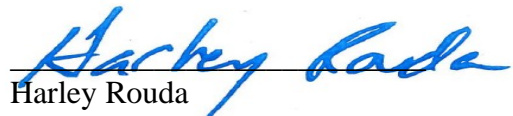
For these reasons, the Committee requests that one or both of your offices conduct a comprehensive review of the U.S. Army Corps' of Engineers' conduct with regard to the Pebble Mine project, including but not limited to the Corps' review of the project under the Clean Water Act and National Environmental Policy Act from May 2017 to the present date and the development of the draft and final EIS.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Harley Rouda
Chairman
Subcommittee on Environment



Jackie Speier
Member of Congress

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

¹⁵ *Pebble's 'Survival' Hinges On 2020 Permit*, E&E News (Jan. 3, 2020) (online at www.eenews.net/stories/1061975461).

¹⁶ *Questions Surround Pebble Mine's Environmental Review*, High Country News (June 12, 2020) (online at www.hcn.org/articles/mining-questions-surround-pebble-mines-environmental-review).

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The Honorable Mark Green, Ranking Member
Subcommittee on Environment