

September 6, 2022

Mr. Casey Sixkiller, Administrator
Region 10, Environmental Protection Agency

Submitted via www.regulations.gov

Re: Proposed Determination to Prohibit and Restrict the Use of Certain Waters Within Defined Areas as Disposal Sites; Pebble Deposit Area, Southwest Alaska; 87 Fed. Reg. 32021; Docket ID No. EPA-R10-OW-2022-0418.

Dear Mister Sixkiller,

The Alaska Chamber (the Chamber) writes to express concerns on the EPA Region 10 2022 Proposed Determination to prohibit and restrict the use of certain waters within defined areas as disposal sites within the Pebble Deposit Area under Section 404(c) of the Clean Water Act.

The Alaska Chamber was founded in 1953 and is Alaska's largest statewide business advocacy organization. Our mission is to promote a healthy business environment in Alaska. The Chamber has more than 700 members representing 58,000 Alaskan workers and \$4.6 billion in wages.

The Chamber membership reviews, discusses, and votes annually on its policy positions and priorities. Among the dozens of positions of importance to the Chamber, two specifically apply to the proposed Pebble Project, and one of them is a top Federal priority.

The first position has been a part of the Chamber advocacy agenda for over a decade. The position states:

- **Support development of environmental policies and regulations based on sound scientific basis over the precautionary method**

The Alaska Chamber supports protecting public health and the environment through reasonable, carefully considered programs that are developed and implemented based on sound scientific arguments; credible, reproducible studies; and economic analyses. The Chamber opposes efforts to implement the "precautionary principle" in developing or implementing environmental programs and regulations. The precautionary principle presumes that many activities pose a risk to health and the environment, even without the presence of any scientific evidence that such risks are, in fact, present or related to a specific activity, and requires that precautionary measures be adopted or implemented to mitigate those assumed risks.

The second position was adopted in December 2021 and immediately rose as a top federal priority. It immediately became a priority due to the onslaught of anti-Alaska and anti-responsible resource development policies coming from Washington D.C. The priority states:

Advocate for a federal regulatory structure that is balanced, predictable and stable.

The Alaska Chamber has witnessed significant federal administrative and legislative actions impacting Alaska's businesses and overall investment climate. The Chamber stands ready to engage on multiple fronts in support of our existing federal positions. The ability of Alaska to responsibly develop its wealth of natural resources and support a diverse private economy is



paramount. Advocating for a stable and predictable federal regulatory and fiscal environment is a priority of the Alaska Chamber.

The EPA's Proposed Determination to restrict the use of waters within 309 square miles around the Pebble Deposit is yet one more occurrence in a decade-long string of actions by the agency that have put politics above science and process.

In 2012, EPA Region 10 released the Bristol Bay Watershed Assessment (EPA-HQ-ORD-2012-0276), one the agency conducted prior to the Pebble Partnership submitting any sort of mining plan or permit application. Instead, EPA designed a hypothetical mine scenario intentionally crafted to attempt to show negative impacts to the environment. A watershed assessment is not a step in permitting and was introduced arbitrability for the Pebble Project. In 2013, EPA released its revised assessment which continued a biased and scientifically specious review of the proposed project. Using the two flawed assessments, EPA ultimately released a Proposed Determination concluding mining cannot be done safely at Pebble and initiated a Section 404c veto process. Again, this was done in the absence of a permit application for mining in the area and without any formal, established environmental review.

Following both litigation and a change in the federal Administration, EPA began a process to withdraw its Proposed Determination and federal permitting for the Pebble Project began. From 2018 to 2020, the Pebble EIS scoping, draft, and final took place, in which we provide more detail below. Following a Final Environmental Impact Statement (EIS) that concluded the mine plan as proposed would not have negative impacts to the environment, the United States Army Corps of Engineers (Corps) denied a 404 permit to the project. This denial is under appeal today, however, in May 2022, EPA announced a new Proposed Determination to again begin a Clean Water Act Section 404(c) veto.

The roller coaster of actions based on politics, and not science and law is one example of precisely why the Alaska Chamber formed its newly crafted federal priority to **advocate for a federal regulatory structure that is balanced, predictable and stable.** Actions that go outside of the normal permitting process are precedent setting and have placed giant red flags before our future opportunities. If a mining project is stopped by a political agenda, make no mistake, the next project on the horizon with any sort of opposition associated with it will be next. This applies to today's energy realities and to tomorrow's energy goals.

In addition, the Proposed Determination deprives the underserved community. The economic activity and revenue brought by Pebble would be especially important for communities closest to the project that have few year-round jobs and face extremely high costs of living. Pebble could provide thousands of jobs, generate hundreds of millions of dollars in economic activity, and make important contributions to the state and local government in Alaska (over \$150 million according to the EIS).

To be clear, there are legal, scientific, economic, and moral reasons to follow the withstanding permitting process and allow for an objective evaluation to take place at the Pebble Project. The Proposed Determination is a politically driven, inexcusable diversion from that process. The Alaska Chamber urges the EPA to continue to be guided by science, not politics, and allow the permitting process to conclude prior to any 404(c) decision.



Thank you for the opportunity to submit comments.

Sincerely,

A handwritten signature in black ink that reads 'Kati Capozzi'.

Kati Capozzi
President and CEO



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