



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

MAR 25 2019

The Honorable Jared Huffman
Chairman
Subcommittee on Water, Oceans,
and Wildlife
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding the role of the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) in the U.S. Army Corps of Engineers' (USACE) permitting process for the Pebble Project.

USACE released the draft environmental impact statement (DEIS) for public review on February 21, 2019, with a public comment period from March 1 through May 31, 2019. NMFS is currently reviewing the DEIS and an accompanying draft of the Essential Fish Habitat (EFH) Assessment (Appendix I), which may provide comments to USACE relevant to our trust resources. NMFS is focused on meeting our statutory obligations under the Endangered Species Act (ESA), the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Marine Mammal Protection Act (MMPA), and the National Environmental Policy Act (NEPA) for this project. These efforts will be helpful in informing the USACE permitting process.

Additionally, your letter posed several specific questions, which I've provided input below.

1. Why did NMFS determine that its participation as a cooperating agency for the EIS was not warranted?

As we noted in our February 9, 2018, letter to the USACE, which you referenced, we declined to be a cooperating agency because the project proposal was not sufficiently advanced for us to determine whether incidental take authorization may be required under the MMPA. NMFS determined that, if necessary, it would be most efficient to prepare our own NEPA document to support our MMPA authorization because the action being considered is limited relative to the entire Pebble Project and that a focused NEPA document would be more appropriate.

2. Were enough resources available to NMFS to provide robust information to USACE for the EIS regarding impacts to fish and fish habitat?

As the lead Federal action agency, USACE has the primary responsibility to prepare the environmental impact statement. NMFS contributed to the report that



identifies potential impacts to fish and fish habitat, An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska (Environmental Protection Agency 2014a) and participated in the Pebble Project Technical Working Group (Environmental Protection Agency 2014b). NMFS will use the information in these reports in assessing the impact analysis for the Pebble Project alternatives on fish and fish habitat in the DEIS and draft EFH Assessment.

3. Will NMFS be fully able to make substantive contributions as required by law, including EFH consultation, incidental harassment authorization under the MMPA, and consultation for species listed under the ESA?

Yes. Along with USACE, we are discussing the appropriate timing for the EFH and ESA consultations within the context of the USACE's permitting process, and we expect to work closely with the Pebble Limited Partnership (PLP) if we receive an application for MMPA authorization for the Pebble Project.

4. What is the status of authorizations under the MMPA?

PLP has applied to NMFS for authorization for the incidental take of marine mammals during geological and geophysical studies associated with the project's proposed facilities in Cook Inlet, and we are discussing that request with PLP. As noted above, if and when PLP applies for authorization for the broader project, we expect to work closely with PLP. The MMPA authorization process includes opportunities for public comment so we will engage with the public, as well.

5. What is NMFS's response to the DEIS assessment that there would be no impact to subsistence harvest levels and no decrease in resource levels and abundance due to the project?

NMFS has not yet completed a review of the DEIS, so we have no response to that assessment at this time.

6. Will NMFS provide the USACE detailed comments on the DEIS?

NMFS is reviewing the DEIS, and we have not yet determined what comments we might submit. NMFS will continue to make all official correspondence with USACE pertaining to the Pebble Project available to the public. We can forward future correspondence to your office.

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I appreciate your interest in NOAA's involvement in this important project. If you have any further questions, please contact Wendy Lewis, Director of NOAA's Office of Legislative and Intergovernmental Affairs, at (202) 482-4981.

Sincerely,



Neil A. Jacobs, Ph.D.
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