

**Congress of the United States**  
**Washington, DC 20515**

March 1, 2019

RDML Timothy Gallaudet  
Assistant Secretary of Commerce for Oceans and Atmosphere, NOAA  
Department of Commerce  
1401 Constitution Ave. NW  
Washington, DC 20230

Chris Oliver  
Assistant Administrator  
NOAA National Marine Fisheries Service  
1315 East-West Highway  
Silver Spring, MD 20910

Dear Rear Admiral Gallaudet and Mr. Oliver:

We write to express our deep concern regarding the National Marine Fisheries Service's (NMFS) decision to decline participation as a cooperating agency in the development of the environmental impact statement (EIS) for the Pebble Mine project proposed by the Pebble Limited Partnership (PLP). We have watched closely as this process has repeatedly brushed past the concerns of Alaska Natives, fishermen, and others despite the potentially devastating impacts that the Pebble Mine would have on their region, their communities, and their way of life.

As you should know, the Pebble Mine threatens one of the greatest salmon runs on the planet. The mine, located in the headwaters of the 40,000 square mile Bristol Bay watershed, risks a thriving economy that generates \$1.5 billion in revenue and provides 14,000 jobs. In fact, 2018 was the largest sockeye salmon run to Bristol Bay on record - the fishery produced 62 million wild salmon.<sup>1</sup> Bristol Bay has always sustained people, communities, and wildlife, and the proposed mine unconscionably risks the traditional way of life and livelihoods for the Alaska Native communities and the fishing economy sustained by the Bay's waters and salmon.

Given these potentially significant and adverse impacts, we are highly disappointed by NMFS' failure to participate as a cooperating agency in the Pebble Mine EIS process. The agency is

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<sup>1</sup> 2018 Bristol Bay Salmon Season Summary, Alaska Department of Fish and Game.  
<http://www.adfg.alaska.gov/static/applications/dcfnewsrelease/989536277.pdf>

responsible for the stewardship of the nation's ocean resources and their habitat and has the scientific expertise to best assess impacts on these critical resources.

NMFS has indicated that it was involved in identifying potential impacts to fish and fish habitat from Pebble Mine. However, it appears to us that the expertise and input from NMFS was not fully utilized in the development of the EIS. Additionally, the Cook Inlet Beluga Whale, Steller Sea Lion, Fin Whale, and Humpback Whale are all within NMFS' purview, and we are very concerned that NMFS' failure to engage fully in the EIS process will ultimately lead to even more severe adverse impacts on the protected marine mammals and endangered species than those stated in the biological assessment of the draft EIS.

In addition to our concerns detailed above, we have several questions regarding the decision by NMFS, as explained in the agency's February 9, 2018 letter declining participation in the Pebble Mine EIS.

- 1) The current cooperating agencies for the Pebble Mine EIS include all those invited, yet NMFS cited that their participation is "not warranted at this time." We respectfully disagree with this evaluation, given that the Pebble Mine would threaten one of the most pristine and productive ecosystems in the world. Please provide explanation as to why participation by NMFS is not warranted.
- 2) NMFS cited "limited resources" in justifying their decision. As you know, the draft Pebble Mine EIS was released February 20, 2019. Were there enough resources available within NMFS to provide robust information to the Army Corps for this draft EIS regarding impacts to fish and fish habitat, as NMFS indicated they would do? What further resources are needed for NMFS to fully participate in the Pebble Mine EIS?
- 3) The letter states that NMFS would be focusing on meeting the agency's obligations under the Endangered Species Act (ESA) and the Magnuson-Stevens Act (MSA). If NMFS is constrained by "limited resources", will the agency be fully able to make substantive contributions as required by law, including essential fish habitat consultation under the MSA, assessment of incidental harassment authorizations under the Marine Mammal Protection Act, and impacts on listed species under the ESA?
- 4) The letter states that there are "insufficient details regarding the aspects of the proposed project" for determinations regarding the requirements for authorization under the Marine Mammal Protection Act. However, it is our understanding that PLP, through its contractor, applied to NMFS for a research permit to conduct surveys in and around the proposed port site in Cook Inlet (File Number 21856). It is our understanding that PLP has submitted surveys to the Army Corps. Did NMFS authorize that research? If not, how can PLP proceed without dedicated marine mammal surveys? It is also our understanding that PLP has applied to NMFS for an incidental harassment authorization (IHA) to survey for its pipeline across Cook Inlet. How will you proceed with PLP on their permit application?

Given the insufficient details regarding the proposed project, as noted in your letter, how is it possible for the EIS to fully assess Pebble Mine's impacts to marine mammals?

- 5) Page 31 of the Executive Summary of the draft EIS states that "during construction and operations, project activities would, in varying degrees, affect the **availability and abundance** of traditional and subsistence resources through habitat loss; behavioral disturbance and displacement resulting from increased noise, vehicle/aircraft/ferry traffic, and human activity; fugitive dust deposits on vegetation; concerns about contamination of resources; avoidance of traditional use areas; and increased costs and times for traveling to more distant areas" (emphasis added). These "traditional and subsistence resources" include fish and wildlife, given that Alaska Natives depend on the Bristol Bay ecosystem. However, the very next paragraph states "Impacts to fish and wildlife would not be expected to impact harvest levels, because there would be no decrease in resources and abundance." These statements directly contradict one another. As an agency that is responsible for fisheries management, what is your response to the assessment that there would be no impact to harvest levels and no decrease in resources and abundance?
  
- 6) In the agency's letter to the Army Corps during the EIS scoping process, dated April 19, 2018, NMFS stated that the agency "may provide more detailed comments during the National Environmental Policy Act (NEPA) review of the draft and final EIS, and during the associated essential fish habitat (EFH) consultation." Now that the draft EIS has been published, will NMFS provide the Army Corps detailed comments to that effect? We ask that NMFS provide copies of all correspondence with the Army Corps pertaining to the Pebble NEPA and EFH processes.

It is critical that NMFS fully participate to ensure that Bristol Bay and the ecosystem, communities, and jobs that rely on healthy salmon are protected from the potentially irreversible and devastating impacts of the proposed Pebble Mine. Given the uniquely accelerated nature of the NEPA process for a project of this risk and scope, we are especially concerned that, by its absence from the process, NMFS is failing its statutory responsibility to safeguard irreplaceable fisheries and other marine resources.

We appreciate your attention to this critical matter and look forward to your response.

Sincerely,



Jared Huffman  
Chair

Subcommittee on Water, Oceans, and Wildlife



Raul M. Grijalva  
Chair

Natural Resources Committee