Message

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Sent: 1/26/2018 2:08:22 PM
To: Brazauskas, Joseph [Joseph.Brazauskas@mail.house.gov]
Subject: DRAFT

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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 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

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