To: Grantham, Nancy[Grantham.Nancy@epa.gov]
Cc: Minoli, Kevin[Minoli.Kevin@epa.gov]
From: Schwab, Justin
Sent: Tue 4/4/2017 5:46:25 PM
Subject: Re: Pebble Mine Settlement?

Ex. 5 - Attorney Client - Deliberative Process

As for the materials below, I'd update to note that on March 20, pebble and the agency jointly moved the court for a brief extension of the stay to pursue settlement talks, which had stalled late last year but which we revived earlier in March.

Sent from my iPhone

On Apr 4, 2017, at 1:42 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

<image001.gif>

Ex. 5 - Attorney Client - Deliberative Process

Thanks ng

Issue Summary:

For well over a decade, Pebble Limited Partnership (PLP), a mining company, has been exploring building a large-scale mine in Bristol Bay. In May of 2010, a group of federally recognized Alaska Native tribes from the Bristol Bay region petitioned EPA to use its authority under Section 404(c) of the Clean Water Act to protect the watershed's fishery resources. In response to competing requests, EPA conducted a multi-year scientific assessment of the potential impacts of large-scale mining in the watershed. In July 2014 EPA Region 10 issued a Proposed Determination under Section 404(c), proposing to restrict the use of certain waters as a disposal site. PLP sued EPA for alleged violations of the Federal Advisory Committee Act (FACA) in preparing the assessment and obtained a preliminary injunction of all 404(c) activities while the litigation proceeds.

Upcoming Milestones:

- **March 20, 2017 Stay of litigation ends**

Background:

The potential Pebble Mine in Bristol Bay, Alaska, is an issue of national significance and the subject of intense public interest. Based on information from PLP, mining the Pebble deposit is likely to involve excavation of the largest open pit ever constructed in North America. The Bristol Bay watershed supports the largest runs of sockeye salmon fishery in the world, and its Chinook salmon runs are frequently at or near the world's largest. The watershed's salmon fishery supports about 14,000 part-time and full-time jobs and generates an estimated $480 million in direct economic expenditures and sales. In addition, for over 4,000 years, it has served as a significant subsistence fishery for Alaska Native people, who may be among the last remaining salmon-based, subsistence cultures in the world.

PLP or its representatives have also filed more than a dozen FOIA requests with EPA, and related FOIA litigation is currently ongoing in the District of Alaska before the same judge in the FACA case.

Key External Stakeholders:

☒Congress ☐Industry ☒States ☒Tribes ☐Media ☐Other Federal Agency ☒NGO ☐ Local Government ☒Other (name of stakeholder) Pebble Limited Partnership

Congress: EPA has received inquiries and document requests about this matter from the U.S. Senate Committee on Environment and Public Works and the U.S. House Committees on Science, Space and Technology and Oversight and Government Reform.

NGOs and Tribes: NRDC, the Bristol Bay Native Corporation and other Alaska native communities support action under CWA section 404(c).

Pebble Limited Partnership and affiliated Northern Dynasty Mining: Seek to develop the mine.

Alaska: The State has been critical of EPA in the past and participated in previous litigation challenging EPA's authority under the CWA regarding Pebble. But a new governor who has expressed opposition to the mine assumed office in December 2014. The State is not currently a major actor.

Moving Forward:

The case is currently stayed until March 20, 2017. At various times throughout the litigation, the parties have conducted settlement discussions but have been unable to come to an agreement. The parties' joint motion for the stay indicated that the purpose of the stay is for the parties to "continue to pursue ways to resolve this case without the press of litigation, including through the continued exploration of mediation."

Lead Office/Region: region 10 Other Key Offices/Regions: ogc, ow, ord

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Pebble Mine still lives

http://juneauempire.com/local/2016-12-27

JUNEAU EMPIRE | December 27, 2016

It has lost most of its major backers and suffered a significant defeat at the ballot box, but the Pebble Partnership's dream of a titanic mine in the Bristol Bay watershed is not dead.

On Dec. 23, the Alaska Department of Natural Resources announced it has temporarily approved an extension of the Pebble Partnership's existing land-use permits.

The extension allows the Partnership to keep its state "hardrock exploration and reclamation" permits through March 31. The announcement was made by the state as DNR considers whether to issue a longer extension. DNR received a flood of comments on that long-term extension and the short-term decision "allows DNR staff the necessary time to comprehensively consider the breadth and scope of the complex issues raised through the public process."

The election of Donald Trump has given Pebble supporters new hope that the mine will be built despite opposition from Alaskans.

In a story published Sunday by the Alaska Dispatch News, Pebble Partnership vice president Mike Heatwole said the company is hopeful.

Pebble Partnership is in mediation with the Environmental Protection Agency, which blocked the project after saying it could not be built without harming the Bristol Bay watershed and the salmon industry.

That decision has been opposed in court, and the two sides are fighting several issues.

In 2014, 65.94 percent of Alaskans voted to approve a ballot measure that gives the Alaska Legislature permission to block a mining project in the Bristol Bay area if lawmakers decide the project would harm fish.

The measure was targeted at Pebble Mine.

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Pebble backers hope Trump administration breathes new life into mine project

https://www.adn.com/alaska-news/2016/12/24/pebble-backers-hope-trump-administration-breaths-new-life-into-mine-project/

Alaska Dispatch News | Erica Martinson | December 24, 2016

WASHINGTON — The companies behind a decade-long effort to build a massive gold and copper mine in Alaska's Bristol Bay region are hoping the new administration of President-elect Donald J. Trump will breath new life into their struggling efforts.

Trump was adamant during his campaign that he would pull back government oversight for natural resource projects, limiting the scope of environmental regulations and slowdowns that stand in their way. His pick to head the Environmental Protection Agency, Oklahoma Attorney General Scott Pruitt, has been a staunch courtroom opponent of what he sees as federal overreach.

So now, the company is "hopeful," said Mike Heatwole, vice president for public affairs with Pebble Limited Partnership, the company created to ferry the project through to its golden end.

The course of the proposed Pebble mine has been rocky, a long affair that has been dragging through the courts for years since the EPA determined that there was no way the project could go forward without damaging the Bristol Bay watershed and the associated salmon industry. The proposed mine site is near salmon streams that produce some of the largest runs of sockeye salmon in the world. Currently, Pebble and the EPA are engaging in legal mediation.

They expect that the Trump administration, and Pruitt at the EPA, will quickly reverse the agency's course and allow the company to apply for an Army Corps of Engineers permit.

Bristol Bay opponents of the project are "disappointed with what we think is coming down the pipe" from the EPA under the Trump administration, said Alannah Hurley, executive director of the United Tribes of Bristol Bay.

She noted particular concern with Pruitt. Hurley cited a recent New York Times article that extensively quoted a major supporter of the nominee, Andrew P. Miller, whose clients include a Pebble mine backer.

But expected support from the Trump administration doesn't mean it's a done deal, Heatwole stressed. The permitting process will take years.

And if the company can gather the dozens of necessary state and federal sign-offs, they still have to get the project past the Alaska Legislature. In 2014, 65 percent of Alaska voters approved a ballot measure that would give the Legislature a say on whether to ban mining, if lawmakers believe a project would endanger wild salmon stocks, adding another layer to the approval process. (Voters rejected a 2008 effort to simply ban large-scale mining in the region.)

In 2014, the EPA issued an unusual preemptive "veto" over the project's necessary Army Corps of Engineers permit. The agency said in-depth research into the area's ecology showed that there was no way a large-scale mining project could move forward without detrimental impacts. Bristol Bay Native groups sought out help from the agency.

Heatwole said company officials believe Pebble hasn't been given a "fair treatment from EPA under the Obama administration." And the "president-elect ran on a campaign to push back on federal overreach," he said, noting that Pruitt's selection as EPA administrator nominee seemed likely to carry that promise forward.

"For us it means the opportunity and ability to bring forward a plan of development and initiate the permitting process via the Army Corps of Engineers," which will be a "rigorous, science-based review of all of the information," Heatwole said.

Before the EPA issued a preemptive "veto" of the project's federal permit, Pebble and its financial backers were criticized for years for failing to apply for a permit as they waited out the Obama administration.

But it's not a simple matter, Trump administration or not.

Heatwole said the company, which has lost most of its financial backing save for Canadian mining company Northern Dynasty Ltd., will have to find new financial supporters — both before applying for a permit and, if it gets mining authority, before construction begins. The company will "clearly need to secure additional financing to get us into the next phase," he said.

But the market is optimistic too.

Shares in Northern Dynasty, which is now the sole owner of the Pebble deposit in Southwest Alaska, have surged upward nearly 130 percent since the election, starting with a bump on Nov. 9. Still, the price per share — $1.72 at close of markets on Thursday — is a far cry from its peak of $22.01 in February 2011.

Northern Dynasty needs new financial partners to see the project through. Partner Anglo American Plc pulled out in 2013 after spending more than $500 million, and Rio Tinto gave its 19.1 percent stake to charity after EPA issued its 2014 veto.

Investors in Pebble have spent several hundred million dollars in testing and pursuit of permits since 2007. (The company never filed for its federal permits, however.) The gold, copper and molybdenum below the ground is thought to be worth hundreds of billions of dollars.

But efforts to rebuff the project have not been put on hold, Hurley said.

Earlier this month, the United Tribes of Bristol Bay and others urged the Alaska Department of Natural Resources to put more stringent requirements into a permit renewal for Pebble Partnership's exploratory work in the region.

The Miscellaneous Land Use Permit is set to expire on Dec. 31. A spokesperson for DNR did not respond to a request for more information about the permit's status.

"They need the permit to do reclamation and to store their equipment out there," Hurley said. The tribes are asking for more "robust monitoring" and stringent cleanup of equipment that has been left in the area, she said.

The permit renewal is just a preliminary part of a permitting process for construction that has not yet begun. To get the project underway would be a "multi-year undertaking," Heatwole said.

There are nearly 60 "major classifications and approvals required for development," and that includes up to 100 individually approved stream crossings from the Alaska Department of Fish and Game.

Nevertheless, in some Republican circles, the hope is that the long timeline of permitting can be sped up.

"It's certainly something that we would like to have conversations about," Heatwole said. Across mining, building and extraction industries, many "believe there has to be a way to get more time certainty in permitting," and make the process more efficient, he said.

Whether the group will be able to get a federal permit remains unknown. But advocates both for and against the mine agree — it will be much easier.

"Regardless of who the president is and the leadership in the state and nation, the people of Bristol Bay remain overwhelmingly opposed to this project, and committed to protecting our fish and our way of life," Hurley said.

Trump win ignites hope for stalled Alaska copper, gold mine

http://www.reuters.com/article/us-mining-alaska-trump-idUSKBN14A287

Dec. 21, 2016 | By Nicole Mordant | VANCOUVER

A small Canadian miner is confident Donald Trump's U.S. presidential win will let it proceed with an application for a copper and gold mine in Alaska that has been stalled almost three years by environmental regulators aiming to protect the world's biggest sockeye salmon fishery.

Ronald Thiessen, chief executive officer and president of Northern Dynasty Minerals Ltd, said he expected the U.S. Environmental Protection Agency to announce in the first quarter of 2017 that it will let the application process proceed for the controversial project. He said the company has held discussions with Trump's transition team, including Myron Ebell, who heads the EPA transition.

Shares in Northern Dynasty, which owns the massive Pebble deposit in southwest Alaska's Bristol Bay region, have more than doubled since the U.S. election on Nov. 8. The shares surged 23 percent on Nov. 9 alone.

In February 2014, the EPA took the unusual action of blocking a mine before the project owner applied for a development permit. The company has estimated that removing that pre-emptive veto could happen three to four months after an EPA announcement. This would allow Northern Dynasty to seek a deep-pocketed partner and resume permitting the project, one of the world's biggest undeveloped copper and gold deposits.

Trump takes office on Jan. 20. Trump's staff did not respond to email requests for comment.

According to the EPA, the Bristol Bay watershed supports the world's largest fishery of sockeye salmon. Environmental groups oppose the mine, as do many native residents who rely on the fish as a subsistence food. Many commercial fishermen and sport fishermen are also opposed.

Last year, U.S. President Barack Obama used a trip to the area to try to cement his environmental legacy. Overturning the EPA veto would be a potent symbol of Trump making good on his promise to remove regulations stopping the expansion of drilling and mining. "It is one of the most stunning projects in the world but there has been this giant bull's-eye on our back. Nobody wants to get into this fight with the government," Thiessen said in an interview.

Northern Dynasty launched legal action against the EPA in May 2014. This October, the two sides agreed to mediation to try to end their dispute. Northern Dynasty wants a partner to replace Anglo American Plc, which spent more than $500 million on the project before pulling out in 2013 as gold and copper prices fell.

Two months after the EPA's 2014 veto, another global miner Rio Tinto, at the time Northern Dynasty's biggest investor, said it would give its 19.1 percent stake to charity. With prospects reviving for the project and big, long-life gold and copper deposits increasingly hard to find, "any large gold or copper mining company is going to be looking at the Pebble project," said Chris Mancini, research analyst at Gabelli Funds, which owns shares in Northern Dynasty. Copper miners such as U.S.-based Freeport-McMoRan and Canada's Teck Resources might take a look at the project, independent mining analyst John Tumazos said. Freeport and Teck declined to comment.

A rally in copper prices since late October has also helped make the project more valuable. Yet opponents remain determined to stop Pebble, and Alaska governor Bill Walker has said he is skeptical of the project."

If Northern Dynasty is excited about Trump taking office, I don't know what their crystal ball is showing them," said Kimberly Williams, director of Nunamta Aulukestai, a non-profit group of tribal governments and village corporations in the Bristol Bay area. "The people in our area are still overwhelming opposed to this project."