Message

From: Nalven, Heidi [Nalven.Heidi@epa.gov]
Sent: 8/21/2020 4:03:27 PM
To: Hough, Palmer [Hough.Palmer@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]
Subject: RE: Pebble

Ex. 5 Deliberative Process (DP)

From: Hough, Palmer <Hough.Palmer@epa.gov>
Sent: Friday, August 21, 2020 11:57 AM
To: Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Pebble

Ex. 5 Deliberative Process (DP)

From: Nalven, Heidi <Nalven.Heidi@epa.gov>
Sent: Friday, August 21, 2020 11:49 AM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Pebble

Ex. 5 Deliberative Process (DP)

Heidi Nalven
U.S. EPA Office of General Counsel
202-564-3189

From: Hough, Palmer <Hough.Palmer@epa.gov>
Sent: Friday, August 21, 2020 11:29 AM
To: Nalven, Heidi <Nalven.Heidi@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Pebble

From page 49 of 55 of our DEIS letter:

"The impacts identified in the DEIS (see Section III above) suggest that the proposed discharges may have the potential to cause or contribute to significant degradation. However, as discussed in detail in Sections V and VII, the current record lacks sufficient information necessary to make a reasonable judgment that the discharges of dredged or fill material will

not cause or contribute to significant degradation of the aquatic ecosystem. The level of information supporting the Corps' factual determinations and documentation explaining the basis for its ultimate conclusions regarding significant degradation should be commensurate with the significance and complexity of the discharge activities associated with this project."

From: Nalven, Heidi <Nalven.Heidi@epa.gov>
Sent: Friday, August 21, 2020 11:21 AM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: Pebble

I know no one asked us for comments but wanted to get your take regarding this bullet:

Ex. 5 Deliberative Process (DP)

§ 230.12 Findings of compliance or non-compliance with the restrictions on discharge.

(a) On the basis of these Guidelines (subparts C through G) the proposed disposal sites for the discharge of dredged or fill material must be:

(1) Specified as complying with the requirements of these Guidelines; or

(2) Specified as complying with the requirements of these Guidelines with the inclusion of appropriate and practicable discharge conditions (see subparts H and J) to minimize pollution or adverse effects to the affected aquatic ecosystems; or

(3) Specified as failing to comply with the requirements of these Guidelines where:

(i) There is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, so long as such alternative does not have other significant adverse environmental consequences; or

(ii) The proposed discharge will result in significant degradation of the aquatic ecosystem under § 230.10(b) or (c); or

(iii) The proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem; or

(iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.

(b) Findings under this section shall be set forth in writing by the permitting authority for each proposed discharge and made available to the permit applicant. These findings shall include the factual determinations required by § 230.11, and a brief explanation of any adaptation of these Guidelines to the activity under consideration. In the case of a General permit, such findings shall be prepared at the time of issuance of that permit rather than for each subsequent discharge under the authority of that permit.

Heidi Nalven

U.S. EPA Office of General Counsel
202-564-3189

From: Hough, Palmer <Hough.Palmer@epa.gov>
Sent: Friday, August 21, 2020 10:30 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: RE: Pebble

Thanks for the update

From: Wehling, Carrie <Wehling.Carrie@epa.gov>
Sent: Friday, August 21, 2020 10:09 AM
To: Hough, Palmer <Hough.Palmer@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>
Subject: FW: Pebble

Updated.

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Goerke, Ariadne <Goerke.Ariadne@epa.gov>
Sent: Friday, August 21, 2020 10:04 AM
To: Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Pebble

Hi Carrie,

Keeping you in the loop on this. At this point, this is just for awareness. OGC has not been asked for comment.

Ariadne

Ariadne Goerke
Acting Associate Deputy General Counsel
Office of General Counsel
U.S. Enviromental Protection Agency
202-564-5471 *office*
Ex. 6 Personal Privacy (PP) *cell*

From: Risley, David <Risley.David@epa.gov>
Sent: Friday, August 21, 2020 10:02 AM
To: Forsgren, Lee <Forsgren.Lee@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Barger, Cindy <Barger.Cindy@epa.gov>; PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>; Rountree, Marthea <Rountree.Marthea@epa.gov>; Widner, Jacob <Widner.Jacob@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>
Subject: RE: Pebble

Updated per Lee's comments.

Ex. 5 Deliberative Process (DP)

David Risley
EPA Office of Water Communications
Office 202-343-9177
Cell Ex. 6 Personal Privacy (PP)

From: Forsgren, Lee <Forsgren.Lee@epa.gov>
Sent: Friday, August 21, 2020 4:42 AM
To: Risley, David <Risley.David@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Barger, Cindy <Barger.Cindy@epa.gov>; PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>; Rountree, Marthea <Rountree.Marthea@epa.gov>; Widner, Jacob <Widner.Jacob@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>
Subject: Re: Pebble

David

Don't put in the date till the COE actually transmits the letter. Probably next Monday and I would not explicitly include

Ex. 5 Deliberative Process (DP)

Lee

Sent from my iPhone

On Aug 21, 2020, at 1:55 AM, Risley, David <Risley.David@epa.gov> wrote:

Lee et al.,
Here are draft talking points regarding the Corps' letter. Please let me know if you have any comments/edits.

Ex. 5 Deliberative Process (DP)

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David Risley
EPA Office of Water Communications
Office 202-343-9177
Cell Ex. 6 Personal Privacy (PP)

From: Risley, David
Sent: Thursday, August 20, 2020 2:08 PM
To: Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Holsman, Marianne <Holsman.Marianne@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>
Subject: Re: Pebble

+ Ariadne

David Risley
EPA Office of Water Communications
Office 202-343-9177
Cell Ex. 6 Personal Privacy (PP)

On Aug 20, 2020, at 2:02 PM, Risley, David <Risley.David@epa.gov> wrote:

I'm hearing that we'll need some talking points on Pebble. Will start drafting this evening/tomorrow morning.

David Risley
EPA Office of Water Communications
Office 202-343-9177
Cell Ex. 6 Personal Privacy (PP)