UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
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September 5, 2008

Michael F. Gearheard, Director
Office of Water and Watersheds
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave., OWW-130
Seattle, WA 98101

Dear Mr. Gearheard:

The National Marine Fisheries Service (NMFS) has provided expertise on the proposed Pebble Mine project since 2003. NMFS sees value in continued participation in such dialog, but we have grown increasingly concerned about whether our comments are being carefully considered by the Pebble Limited Partnership (PLP). We appreciate Environmental Protection Agency (EPA) participation to date and, in anticipation of EPA's role as lead federal regulatory agency for the project, we offer the following comments and request a follow-up discussion.

NMFS recognizes that the proposed project is in an exploratory phase and, while the full scope of the project has not been finalized, it has the potential to adversely impact resources of our concern. According to information submitted by Northern Dynasty Mines in 2006, the operation would be comprised of an open pit mine nearly two miles in diameter and up to 2000 feet deep and an underground mine of equal diameter and a depth of 5000 feet. Several large tailings impoundments encompassing up to 10 square miles are also proposed for mine waste. NMFS notes that the planned mine sites are located in proximity to vast hydrologically connected watersheds and tributary systems that support spawning and rearing habitat, as well as the migratory corridors essential to all salmonid species associated with the Bristol Bay region. NMFS is concerned that operations of the planned mine would result in the disruption of complex and connected hydrogeomorphic processes through the liberation of naturally occurring mineral and metal deposits and the latent release of mine tailings waste, which could adversely affect salmon and their habitat in these watersheds. This would likely have negative consequences for marine resources in Bristol Bay and associated commercial, recreational, and subsistence fisheries.

In the summer of 2007, at the request of PLP, state and federal resource agencies met with PLP representatives to develop an oversight Steering Committee and Technical Working Groups (TWG), both to consist of representatives of state and federal resource agencies. Facilitated by the Alaska Department of Natural Resources, the purpose for doing so was to assemble all related state and federal resource agency expertise *"to provide suggestions related to baseline studies for the Pebble Project, and help determine the scope of studies, geographical extent, methodologies and means to best coordinate study efforts."* NMFS' primary objective for participating in these meetings has been to ensure that PLP's environmental baseline studies are conducted in a manner that facilitates designing the Pebble Mine project in such a way that

minimizes impacts to NMFS' trust resources. NMFS further seeks to ensure that there is sufficient monitoring of changes in the environment, so that proactive steps can be taken to correct potential problems before they have an adverse affect on fish or their habitats.

Environmental studies associated with a project of this magnitude and potential impact must be of sufficient detail and design to withstand a high level of scientific scrutiny. Such studies should include: 1) clearly defined objectives; 2) supporting statistical design, including defined levels of precision and accuracy; 3) correlated sampling methods and effort; and 4) compilation and analysis of data to answer the objectives. For example, estimating the number of adult salmonids returning to and the number of salmonid smolt migrating out of these watersheds requires clear design methodologies and monitoring protocols to evaluate future effects with reasonable precision. This level of rigorous design would allow the monitoring of fish population trends and distinguish the effects of this mining operation against natural variability and other large scale anthropogenic effects, such as commercial or subsistence fishing. Such studies and monitoring protocols are particularly important given the many examples of negative effects that hard rock mining has had on aquatic ecosystems worldwide, including effects on anadromous fish populations and habitat within the Pacific Northwest.

Within the TWG process, NMFS has repeatedly expressed concern that PLP's baseline study designs are inadequate and that associated results will not represent an accurate assessment of the impacts of the mine's operations on the area's resources. NMFS is aware that the PLP has conducted fisheries related studies for four years (2004-present), yet has released little detail regarding specific study designs, methods, or results to the TWGs. The Steering Committee and associated TWGs provide an excellent opportunity for PLP to work cooperatively with resource agencies to further develop, design, and implement scientifically defensible studies. However, despite suggestions by NMFS for more rigorous and robust study designs to monitor for future effects and/or suggestions to employ less expensive, more applicable and accurate methods, PLP has not demonstrated that these suggestions have been incorporated into any study design. Without detailed information from PLP, NMFS cannot confirm that ongoing or planned studies will be adequate for analyzing potential impacts to fish and fish habitat.

We look forward to discussing our concerns with you in more detail and would be interested in exploring ways that NMFS can work more closely with the EPA and others to resolve these outstanding issues and concerns. In this regard, NMFS would be willing to facilitate convening key agencies for such a discussion. As a part of this, we would like to discuss how EPA foresees the State of Alaska assuming primacy of the National Pollutant and Discharge Elimination System permits and how this could affect the Pebble Mine permitting process and the structure and function of the Steering Committee and TWGs.

Please contact my staff, Jeanne Hanson at (907) 271-3029, or Nicole LeBoeuf at (907) 586-7122, to arrange a time to discuss further.

Sincerely,

Robert D. Mecum
Acting Administrator, Alaska Region

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