



The Honorable Carolyn B. Maloney, Chairwoman  
Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

The Honorable Harley Rouda, Chairman  
Subcommittee on Environment  
2157 Rayburn House Office Building  
Washington, DC 20515-6143

The Honorable Jackie Speier  
U.S. House of Representatives  
2465 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairwoman Maloney, Chairman Rouda, and Representative Speier,

I am writing in regards to a letter that the three of you have sent to the Inspectors General of the U.S. Department of Defense and the U.S. Army requesting an investigation into the U.S. Army Corps of Engineers' (USACE) environmental review of the Pebble Partnership's application for a Clean Water Act permit to develop the Pebble Mine in southwest Alaska. As you are no doubt aware, Inspectors General are tasked with investigating waste, fraud, and abuse in federal agencies. Yet your letter fails to identify or even allege a single instance of waste, fraud, or abuse on the part of USACE throughout its Pebble Mine deliberations. Rather, the letter is a recitation of many incorrect issues that have been raised over the last several months that warrant additional context and correction from us.

Despite believing it to be unnecessary and many of the allegations raised as baseless, we welcome a review of USACE's actions to date and pledge our cooperation. We are confident in the sufficiency and completeness of our technical work. We believe the USACE has undertaken a thorough, transparent and credible environmental review of the Pebble Project. Our support for an IG review is rooted in the notion that it will put to rest many incorrect statements about Pebble that have permeated the public conversation about our project.

Below are our responses to points raised in your letter to the IGs:

***Assertion #1:*** *"The full development of the Pebble Partnership's proposed gold and copper mine in Alaska would be the largest in North America."* The project we took into permitting will not even be the largest mine in Alaska. According to the project description posted at [Pebbleprojecteis.com](http://Pebbleprojecteis.com), our pit dimensions are 6800 ft x 5600 ft with a depth after 20 years of 1950 feet. Alaska mining project Donlin Gold, according to the posted project description via Alaska Department of Natural Resources, would have pit dimensions of 3470 m (11384 ft) x 2530 m (8300 ft) with a pit depth of 1850 ft. Bingham Canyon Mine in Utah is 2.75 miles across (14520 feet) with a pit depth of 3960 feet.

***Assertion #2:*** *The proposed mine poses risks “if dams holding back the tailings fail in an earthquake.”*

The premise of this assertion is that we did not take seismic conditions into consideration. The USACE addressed seismic risks directly in its EIS, and our project team has spent significant effort to ensure seismic risks is appropriately assessed and can be properly managed. As part of this approach, the Pebble design accounts for several earthquake scenarios, including one similar to the 1964 9.2 magnitude earthquake that shook Alaska and equivalent of a 7.5 magnitude earthquake on the Lake Clark fault – a fault that has not experienced seismic activity for over 10,000 years. Additionally, we utilize best practice for tailings management and storage by separating the largely inert bulk tailings from the pyritic tailings and by incorporating a very robust water management plan.

***Assertion #3:*** *The Pebble Mine creates “the threat of a catastrophic failure of a dam that would store acidic mining waste.”* To begin, there will be no acidic wastes stored at the Pebble site. The issue of the threat of a catastrophic failure has been extensively discussed in the draft EIS, the preliminary final EIS, and the final EIS. The discussion has centered around the issue of whether a catastrophic failure analysis for the bulk tailings facility was warranted. The USACE has said that based upon how we plan on building, operating and maintaining the bulk TSF as a flow through facility, that the USACE could not establish a failure mechanism that would lead to a catastrophic failure. One of the major improvements we made to our design was to this flow through approach to the bulk tailings facility, which does not allow water to accumulate within the facility. The final EIS looked at four recent TSF failures in other parts of the world and also evaluated probable, yet highly unlikely, TSF spill scenarios. There is a robust discussion of this in the appendix K4.27.

***Assertion #4:*** *The “Army Corps expedited the Clean Water Act permitting and NEPA review process at the expense of a thorough scientific review.”* This is incorrect. Your letter identifies no basis or standard against which to claim the Pebble Project EIS process has been expedited or scientific rigor sacrificed. In fact, the USACE’s timeline and comprehensiveness have been appropriate for a project like Pebble. The USACE has *extended* the process to allow more time for public comments and is behind its originally planned schedule to release a Record of Decision in early 2020. And a two and a half year NEPA review process is hardly “expedited.” Consider the length of time to evaluate the following projects:

- **Haile Mine:** The EIS process for the Haile Mine in South Carolina began July 2011, and the final EIS was published less than three years later in June 2014.
- **Pogo Mine:** In August 2000, Teck-Pogo Inc. applied for a Section 404 permit for a proposed underground cut-and-fill gold mine on State of Alaska-owned land in the Goodpaster River Valley. EPA, in close consultation with the USACE, published a DEIS in March 2003, then a final EIS in Sept. 2003 – three years and a month after the application.
- **Kensington Mine:** In 2001, Coeur Mining redefined the scope for its development of an underground gold mine within the Tongass National Forest outside of Juneau. This necessitated a new NEPA review, which was completed three years later in December 2004.
- **Red Dog Mine:** EPA prepared the Supplemental EIS for the expansion of the Red Dog Mine into the Aqqaluk deposit in northwest Alaska. The permitting process started in mid-2007 and the EIS was finished during Fall 2009, taking just over two years. The USACE was a cooperating agency.
- **Point Thomson:** The USACE was the lead agency for the EIS for the development of ExxonMobil’s Point Thomson oil facility on the North Slope of Alaska. The EIS process began in late 2009 and the final EIS was issued mid-2012, taking approximately two and a half years.

To add additional context about the work undertaken, the independent third-party contractor hired by the USACE to oversee the review process spent more than 100,000 hours evaluating the project and developing the EIS. This doesn’t include the time spent on the project by the federal agencies. To put

this figure into perspective, it is approximately 50 man years of effort.

***Assertion #5:*** *The “Army Corps ignored input from key experts and constituencies.”* This is incorrect. It would actually be nearly impossible for USACE to have been *more* collaborative in conducting the Pebble EIS process. USACE has designated two Bristol Bay Alaska Native tribal entities as cooperating agencies for the EIS and has consulted with federally recognized Tribes 128 times over the course of their review of Pebble.

USACE also significantly extended the comment periods during scoping and on the draft EIS to ensure all parties had adequate opportunities for input, held numerous public meetings, and engaged a cultural anthropologist to assist with evaluating issues such as subsistence. All total, the public had 210 days to make their views known to the USACE. The USACE held three technical workshops with other participating federal agencies to work through many issues raised via the public comment and agency comment opportunities. The Environmental Protection Agency complimented the USACE’s work with other cooperating agencies in their May 28, 2020 letter to the USACE:

*“Since July of 2019 our agencies have been working together on Corps review of this proposed project. Most recently since mid-March, the Corps, EPA, and USFWS have met weekly to discuss issues related to the evaluation of the proposed Pebble Mine pursuant to the CWA Section 404(b)(1) Guidelines. The EPA has found these weekly sessions to be invaluable. We appreciate the Corps’ convening of these discussions...As the very productive interagency discussions conclude, we want to express our appreciation for the Corps’ willingness to engage with both the EPA and Fish and Wildlife Service collectively. Our hope is that this experience lays the groundwork for continuing cooperation between the agencies to resolve substantive concerns on this project or any future projects in Alaska.”*

Both EPA and USFWS participated in the identification of the draft LEDPA and 404(b)1 analysis. As part of the NEPA process, the USACE must respond to all comments received during the public comment process. Last, just because a constituency does not like the conclusions reached by the USACE does not mean the USACE’s work is incomplete.

***Assertion #6:*** *“This application failed to include essential information regarding mine construction, operation, maintenance, and closure plans necessary to adequately develop an EIS under NEPA or conduct review under the Clean Water Act.”* This is incorrect, and your letter provides no basis for this allegation. When we initiated the permitting process with the USACE, we submitted a detailed project description to document our proposed plans. Since that time and throughout the EIS process, USACE has requested technical information and updated plans from the Pebble Partnership and refined its recommendations for alternatives. Both the draft and final EIS are filled with evaluation of these very aspects of the permit application for the Pebble Project. For a more complete understanding about plans for developing a mine at Pebble, we direct you to review Chapter Two of the EIS, Alternatives, and Appendix K2.0, Alternatives. The USACE work has been thorough.

***Assertion #7:*** *“In 2019, the U.S. Environmental Protection Agency . . . abruptly dropped its opposition to the mine in order to allow the project to enter the NEPA permitting process.”* This is incorrect. The Pebble Partnership applied for a wetlands permit and initiated the NEPA permitting process in December of 2017, thus when EPA withdrew its unprecedented preemptive veto the USACE had been working on its NEPA review for nearly two years. EPA remains an active participant in the federal permitting process. By withdrawing the preemptive veto, EPA was merely allowing the process to proceed according to the statutorily required and established procedure. EPA maintains the authority to restrict or veto the project at the designated time.

***Assertion #8:*** *The “final EIS does not significantly differ from the draft EIS.”* This is incorrect. The final EIS

includes several key differences from the draft, as USACE updated its findings based on information provided by Pebble, cooperating agencies and other key stakeholders. The final EIS even makes several important recommendations that are different from the draft EIS and our original plans, including updated findings on tailings storage and recommending a new transportation corridor option. We would encourage staff to read pages 7-8 of the EIS Executive Summary to see a list of the major changes between the draft and final Pebble EIS documents. What did not change between the draft and final EIS is the central conclusion that a mine at Pebble could operate responsibly without harm to the salmon fishery in Bristol Bay, and that the economic opportunity for the Alaska Native communities around Iliamna Lake would be substantial.

**Assertion #9:** *"In the first three quarters of 2019 alone, the company spent at least \$1.22 million in lobbying expenses."* This is false. It repeats an incorrect assertion that double-counts figures in public filings, as the Pebble Partnership in fact spent less than \$700,000 on lobbying in the period you identify. It has often been repeated by advocacy groups opposed to the project to paint us in a negative light. The fact of the matter is the previous Administration engaged in an unprecedented attempt to block development of the Pebble Project before the company could even submit a permit application. Given that, it is not surprising that work was necessary to set the record straight in Washington. Underinformed letters like yours to the IG clearly demonstrate this work must continue.

**Assertion #10:** *"...the Army Corps conducted its environmental review on an unusually fast track, without sufficient attention to minimal scientific integrity standards and an alarming lack of transparency."* This particular assertion is one we hope and expect an IG review to address in a comprehensive and objective way. If it does, we are confident the review will conclude that the USACE work on the Pebble Project EIS was undertaken with the utmost integrity and was one of the most transparent permitting processes ever undertaken for a resource development project.

The timeline issue was addressed previously. From the beginning, the USACE staff tasked with administering the NEPA review for the Pebble Project recognized the process would draw much more attention than other projects, and they were determined to be transparent and thorough. They established a project website that was continually update throughout the review process. The website was populated with every request for information when it was received, some 285 in total, as well as the final response. The USACE held monthly roundtable discussions with interested members of the media to explain its process and the issues they were addressing. The minutes of these meetings were also published to the website.

The Pebble Partnership welcomes a robust public debate on the environmental, economic, and social impacts and benefits of its proposed mine. And we welcome an Inspector General review of USACE's actions as part of that public debate. If you or your staff would like a comprehensive briefing or more information, we are happy to provide one for you.

Respectfully,



Tom Collier, CEO  
The Pebble Partnership

CC: The Honorable James R. Comer, Ranking Member  
Committee on Oversight and Reform