



March 8, 2021

Michael Regan  
Administrator-designate

Jane Nishida  
Acting Administrator  
Mail Code 1101A  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: Permanent Protection for Bristol Bay, Alaska

Dear Administrator-designate Regan and Acting Administrator Nishida:

On behalf of the Natural Resources Defense Council (NRDC) and our more than 3 million members and activists, we write to support and amplify the request from United Tribes of Bristol Bay (UTBB)—a consortium of 15 federally-recognized tribes that represent more than 80% of the region’s population—to protect Bristol Bay from the threat of the proposed Pebble Mine.

In a February 2021 letter, UTBB wrote:

The Tribal people of Bristol Bay and those whose livelihoods depend on its waters have dealt with uncertainty from the threat of the Pebble Mine for far too long...Section 404(c) of the Clean Water Act allows the federal government to permanently protect any watershed from the threat of mining. Our Tribes firmly believe, and therefore formally request, that the EPA use this authority under the Clean Water Act and make ending the threat of the Pebble Mine a top priority.<sup>1</sup>

If built, the proposed Pebble Mine—or indeed any large-scale mine—would threaten the entire Bristol Bay region and way of life. Unprecedented in size and impact, the Pebble Mine has generated unparalleled opposition from Alaska Natives, Tribes, Bristol Bay residents, businesses, fishermen, sportsmen, faith-based organizations, jewelers, chefs, conservation and environmental groups, and from people around the world, citing its environmental, social, and economic risks.

Bristol Bay supports sustainable commercial, subsistence, and recreational fisheries that are the backbone of the region’s economy. It is home to the largest wild sockeye salmon fishery in the world; supplies half of the world’s wild sockeye salmon; generates \$1.5 billion annually, and supports more than 14,000 jobs.<sup>2</sup>

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<sup>1</sup> Letter from Robert Heyano, President, United Tribes of Bristol Bay to Michael Regan, Administrator-designate, and Jane Nishida, Acting Administrator, EPA (February 2021).

<sup>2</sup> *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska (Final Report)*. U.S. Environmental Protection Agency, Washington, DC, EPA 910-R-14-001A-C, ES, 2014; Bristol Bay Watershed Assessment and Proposed Determination, [Appendix E](#), p. 18. EPA Final Watershed Assessment, 2009.

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Last year alone, Bristol Bay celebrated the return of almost 60 million salmon. Integral to that extraordinary run is the environmental sustainability of the region—something the proposed Pebble Mine would jeopardize.

But salmon are more than the economic engine of the region. Put simply, salmon are life in Bristol Bay. As they have for millennia, the wild salmon returning each year to Bristol Bay ensure Alaska Native communities' ways of life. Salmon feed its people, anchor its culture, sustain its wildlife, and are indispensable to both the practical and spiritual wellbeing of Bristol Bay's indigenous peoples.

None of this is new to EPA. Former President Obama described Bristol Bay as “one of Alaska's most powerful economic engines and one of America's greatest national treasures.”<sup>3</sup> After conducting a rigorous three-year, twice-peer reviewed scientific study of the potential impacts of large-scale mining on the Bristol Bay region, the Obama-Biden EPA determined in 2014 that the Pebble Mine would have “significant” and even “catastrophic” impacts on the region.<sup>4</sup>

EPA has explicit statutory authority under Section 404(c) of the Clean Water Act to “prohibit,” “restrict,” “deny,” or “withdraw” the permitting of dredge and fill projects when EPA finds that the discharge “will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.”<sup>5</sup>

Using its 404(c) authority, the Obama-Biden EPA proposed restrictions in 2014 to protect Bristol Bay from the Pebble Mine.<sup>6</sup> However, the Obama-Biden Administration was unable to complete that work due in large part to delays from litigation brought by mining proponents. The Trump Administration ultimately reversed and withdrew the proposed restrictions in 2019, and the region and those who depend on its waters continue to live under the threat of the Pebble Mine. Bristol Bay remains unprotected.

Although the U.S. Army Corps of Engineers denied the Pebble Limited Partnership's Clean Water Act permit request late last year, the Pebble Mine continues to hang like the sword of Damocles over the Bristol Bay region.<sup>7</sup> Indeed, Pebble is currently appealing the Corps' denial and has pledged to fight tooth and nail in court to overturn the Corps' decision. If those appeals fail, Pebble could always modify and re-file its permit application. And there is a very real risk of large-scale mining in the region by other companies in the future.

The Army Corps' denial offers no lasting protections for the region and does nothing to prevent future threats. This continuing threat to Bristol Bay requires an immediate solution. Fortunately, Congress provided EPA with the legal authority to do so using its well-established, science-based process under Section 404(c) of the Clean Water Act.

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<sup>3</sup> The White House, *5 Things You Need to Know About Alaska's Bristol Bay* (Dec. 16, 2014), <https://obamawhitehouse.archives.gov/blog/2014/12/16/5-things-you-need-know-about-alaskas-bristol-bay#:~:text=President%20Obama%20just%20took%20action%20to%20protect%20one%20of%20Alaska's,future%20oil%20and%20gas%20drilling>.

<sup>4</sup> *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska (Final Report)*. U.S. Environmental Protection Agency, Washington, DC, EPA 910-R-14-001A-C, ES, 2014.

<sup>5</sup> 33 U.S.C. § 1344.

<sup>6</sup> *Proposed Determination to Restrict the Use of an Area as a Disposal Site; Pebble Deposit Area, Southwest Alaska*, 79 Fed. Reg. 42314 (July 21, 2014).

<sup>7</sup> Army Corps of Engineers, *Record of Decision for Application Submitted by Pebble Limited Partnership To: The United States Army Corps of Engineers* (Nov. 20, 2020).

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President Biden has already committed to protecting Bristol Bay. As a candidate, he said:

Bristol Bay has been foundational to the way of life of Alaska Natives for countless generations, provides incredible joy for recreational anglers from across the country, and is an economic powerhouse that supplies half of the world's wild sockeye salmon. It is no place for a mine. The Obama-Biden Administration reached that conclusion when we ran a rigorous, science-based process in 2014, and it is still true today...As President, I will do what President Trump has failed to do: listen to the scientists and experts to protect Bristol Bay — and all it offers to Alaska, our country, and the world.<sup>8</sup>

Pebble's recent appeal demonstrates, yet again, the real urgency to finish that work.

Because of the unacceptable adverse effects of the Pebble Mine, EPA should exercise its Section 404(c) authority to permanently prevent the mine from irreparably altering the region.

In a full-page ad last month in *Politico*, UTBB implored:

The Tribal people of Bristol Bay and those whose livelihoods depend on its waters have dealt with uncertainty from the threat of the Pebble Mine for far too long. Your administration has the opportunity to end that uncertainty by protecting this national treasure and securing the future the people of Bristol Bay deserve.<sup>9</sup>

For the good of the people, economy, and environment in the region and beyond, we urge EPA to act swiftly. Please prioritize preserving the Tribes, communities, and jobs that the Bristol Bay fishery supports over furthering the interests of a foreign mining company. And please bring long-awaited certainty to those whose lives and livelihoods depend on Bristol Bay's clean water and salmon.

Thank you in advance for your consideration. We would welcome the opportunity to discuss this important issue with you and your staff at any time.

Sincerely,



Taryn Kiekow Heimer  
Senior Advocate  
Deputy Director, Marine Mammal Protection



Joel Reynolds  
Western Director, Senior Attorney

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<sup>8</sup> Joe Biden, *My Statement on Bristol Bay* (Aug. 8, 2020), <https://medium.com/@JoeBiden/statement-by-vice-president-joe-biden-on-bristol-bay-1a83d60a2986>.

<sup>9</sup> Open Letter to President Biden, *Politico* (Feb 24, 2021), <https://stoppebbleminenow.org/media/>.