

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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November 7, 2017

VIA ELECTRONIC FILING

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Re: Withdrawal of the Proposed Determination for the Pebble Mine in Alaska (EPA-R10-OW-2017-0369)

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, would like to thank you for leading the U.S. Environmental Protection Agency ("EPA") settlement with the Pebble Partnership, LLC ("Pebble Partnership") which would rescind EPA's 2014 'Proposed Determination' for the Bristol Bay watershed area ("BBWA").

This settlement will allow the Pebble Partnership to submit a permit application to the U.S. Army of Corps of Engineers ("Corps") and undergo a vigorous environmental, economic, and social impact review process under the National Environmental Policy Act ("NEPA") – an action afforded to all other projects in the U.S. and one that is widely endorsed by environmental and industry groups alike.

The Pebble Partnership was not afforded the opportunity to submit a permit application to the Corps before EPA decided to limit development within the BBWA. Rather, EPA took action under Section 404(c) of the Clean Water Act to preemptively deny the use of the BBWA for the Pebble Mine before its project sponsors submitted a permit application. This action was unprecedented – in the *thirteen* previous instances that EPA exercised its Section 404(c) authority, it had relied on a permit application that had already been filed.¹

¹ William S. Cohen, *Report of an Independent Review of the United States Environmental Protection Agency's Actions in Connection with Its Evaluation of Potential Mining in Alaska's Bristol Bay Watershed* at ES-4 (Oct. 6, 2015), available at <http://files.cohengroup.net/Final/Final-Report-with-Appendices-compressed.pdf>. (hereinafter "Cohen Report")

In 2013, we expressed our disagreement to the former Administrator with the way that EPA handled the “Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska,” and the subsequent Proposed Determination to preemptively block the NEPA review.²

Specifically, according to one study, EPA’s evaluation process for the Proposed Determination was improperly based on an analysis of information in the Assessment that was not sufficiently accurate. For example, according to an independent study conducted by former Secretary of Defense William Cohen:³

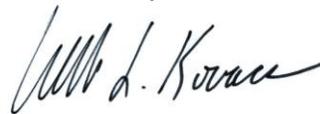
- EPA relied on hypothetical scenarios to formulate the Assessment, rather than the characteristics of a mine as planned to be built or maintained;
- EPA did not consider meaningful participation by the State of Alaska or the Corps, mitigation and controls as proposed by the developer, and an array of public interest factors; and
- EPA acknowledged that there were significant gaps in its assessment and that it was not designed to replace the NEPA process.

The Pebble Mine has the potential to greatly benefit both the Alaska and U.S. economy. As of 2014, the mine was expected to create over 15,000 jobs and produce over \$18 billion in revenue for local, state, and federal taxes. The project could increase U.S. copper production by 20 percent.⁴ In light of the large costs to the economy imposed by EPA’s 2014 Proposed Determination, the Chamber applauds EPA for understanding the importance of allowing the Pebble Partnership to make its case that it can safely operate its facility.

Thus, it is only fair that the Pebble Partnership, or subsequent operators, be able to present a mine plan and prove they can operate it safely under federal and state laws and regulations.

We again thank you for your continued efforts to ensure that our laws and regulations fairly treat all applicants for federal permits and that the EPA or any federal agency not pre-determine an outcome when there is a well-established process, like that under NEPA, to do so.

Sincerely,



William L. Kovacs

² Comments of U.S. Chamber of Commerce, Docket # EPA-HQ-ORD-2013-0189, An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay (June 28, 2013) *available at* <https://www.uschamber.com/sites/default/files/legacy/comments/US%20Chamber%20Comments%20-%20EPA-HQ-ORD-2013-0189.pdf>.

³ See Cohen Report at ES-7.

⁴ Testimony of William L. Kovacs to House Subcommittee on Water Resources and the Environment at 5 (July 15, 2014) *available at* <https://transportation.house.gov/uploadedfiles/2014-07-15-kovacs.pdf>.