

Both sides dig in as EPA's final decision on Pebble Mine nears

October 4 2022, by Valerie Yurk



Pebble Mine. Credit: Erin McKittrick, www.aktrekking.com/pebble/ (AlaskaTrekker at English Wikipedia), CC BY 2.5 , via Wikimedia Commons

Environmental advocates, Alaska Natives and commercial fishermen say they are at once confident and anxious as they wait for the EPA to announce a final ban on mining wastes in Bristol Bay, Alaska—home to

one of the world's largest salmon fisheries—that would effectively kill a gold and copper mine estimated to be worth \$350 billion.

The Pebble Mine has endured a decades long fight spanning three administrations, all of which have moved to block the mine to protect the fishery. The developers, Canada-based Northern Dynasty Minerals Ltd. and other investors doing business as the Pebble Limited Partnership, are still determined to keep the project alive.

It would be unusual for the EPA to reverse its preliminary decision to ban mining wastes from Bristol Bay under a provision of the Clean Water Act, but the Pebble Limited Partnership won't be reluctant to take the EPA to court to secure the permits it needs, according to a spokesman.

Meanwhile, Delores Larson, who lives in the Native village of Koliganek, Alaska, on the Nushagak River, says the possibility of the Pebble Mine getting a green light is terrifying. There are no grocery stores where she lives, she said, no lettuce, bananas or any other imported foods. But there are native berries, moose and other wildlife, including the salmon that begin their northern journey to spawn about 125 miles downstream in the Bristol Bay fishery.

Her people are "salmon people," she said in an interview in Washington last month as she scrolled through pictures of bright pink catch drying in a shed back home in Koliganek and the dark, glossy filets of her famous salmon jerky. "Salmon is gold to us."

Larson had traveled over 3,000 miles to pressure the EPA to finalize its "proposed determination" announced in May to "prohibit and restrict the use of certain waters in the Bristol Bay watershed (South Fork Koktuli River, North Fork Koktuli River, and Upper Talarik Creek watersheds) as disposal sites for the discharge of dredged or fill material associated

with mining the Pebble Deposit." The agency says the project would threaten the bay's salmon fishery, which this year produced more than 76 million sockeyes, an all-time record harvest.

"Honestly, we would cease to exist as a people," she said with a sigh, considering what would happen if the Pebble Mine was built. "It's our whole life. We depend entirely on our salmon."

But developers aren't keen on letting the EPA strike down a multibillion-dollar project that would tap into what geologists say is one of the world's largest reserves of gold, copper and other minerals. They hold that their plan to contain the wastes is sound, despite what the EPA has said in various reports.

"The record EPA has tried to create for this action is baseless," said Mike Heatwole, vice president of public affairs for the partnership. "No matter the outcome, we will continue to press our case for this important mineral project."

A final decision had been expected this month after the EPA received a flood of public comments mostly supporting the plan for banning waste. But the agency announced on Sept. 6 that it would postpone the final determination until December so it could fully review all the comments—though it hasn't escaped notice that it means there will be no announcement before the midterm elections.

And the inevitable legal battle ahead would prolong an already lengthy fight for the project.

Northern Dynasty Minerals began exploration of the Pebble deposit in 2002, securing mining rights for a project on 186 square miles of Alaska state land, including an open pit spanning 2 to 3 miles wide and nearly a mile deep.

The chemicals necessary to separate the copper and gold would create a lot of waste, which led to the partnership's preliminary proposal of embankments, or earthen dams, up to 740 feet tall that would hold up to 10 billion tons of mine tailings. Pebble Partnership says the tailings aren't hazardous, although environmentalists argue they are a toxic mixture of sulfuric acid, mercury, arsenic, lead, zinc, cadmium and metals.

The tailings, or sulfide waste, would have to be contained "perpetually" since they don't naturally decay. The partnership's current plan calls for "permanent underwater storage" that presents "no failure risk and offers no threat to downstream habitat," according to its website.

But the EPA has yet to be convinced the dams can hold 100 percent of the tailings. In 2012 and 2014, President Barack Obama's EPA released draft and final assessments saying the Pebble Mine would destroy up to 94 miles of streams, including 22 miles of salmon-rearing habitat, and eliminate more than 7 square miles of wetlands that support the fishery. And, the EPA said, a breach of dams meant to contain mine tailings would have "devastating effects on aquatic habitat and biota."

"That's what scares everyone in Alaska," said former Republican Alaska state Sen. Rick Halford, who's spent the past few decades fighting the Pebble Mine. "'Perpetual' is some word you should hear in church, not some grand mining scheme."

Despite mounting opposition from locals and environmental advocates, the Pebble Limited Partnership applied for a permit from the Army Corps of Engineers in 2017. After several years of study, the corps issued an environmental impact statement in 2020 that was favorable to the mine, essentially saying it could be built and operated without harm to the Bristol Bay fishery, and it appeared the Trump administration would give it a green light.

Then the tide began to turn against the mine. Before a permit was issued, a leaked conversation between partnership executives showed they expected to continue mining operations for 180 years—much longer than the proposed 20-year plan.

Opponents also accused the corps of fast-tracking the environmental assessment, and an odd array of conservationists and outdoors enthusiasts, including presidential son Donald Trump Jr., came out against the project.

In a surprising turnabout, the Trump administration denied the mine's permit in November 2020, a few weeks after President Donald Trump's unsuccessful reelection bid. President Joe Biden's EPA then appeared ready to close the matter for good in May, with its proposed determination to ban mining wastes in Bristol Bay.

Although the EPA has yet to announce a final determination, both sides in the battle have been expecting the agency to follow through on its plan, and opponents have been sensing victory.

"This project isn't economical," said Halford. "It's too big, there's not enough investors. Even a big mining company would have to commit six or seven billion dollars to get there."

The Pebble Limited Partnership had initially attracted three large investors—Mitsubishi Corp. of Tokyo, London-based Anglo American and Rio Tinto Group, also based in London. But all three backed out by 2014. Still, the partnership received a pledge of \$9.4 million in August from a new, unnamed investor, including a deal for more potential investments over a two-year period totaling up to \$47 million.

The developers are already preparing for legal battles, according to Heatwole, the partnership spokesman. Instead of rewriting a more fish-

friendly permit, the partnership plans to attack the basis for the decisions by the EPA and the corps, he said.

Pebble Limited Partnership has appealed the corps' permit denial, stating the decision was "not in line with the findings of the final EIS it published about the project," Heatwole said. That appeal is still under review.

As for the EPA's determination under the Clean Water Act, Heatwole said such a broad ban, which is "23 times the size of our project's footprint," has never been issued and is "not legal under the statute."

Many Alaskans oppose the mine—polling commissioned by mine opponents found 68 percent had a somewhat or very unfavorable opinion of the project—but the state's attorney general and governor have sent letters to the EPA, warning that the determination will create an "unrestrained EPA" with a "wild card, playable at whim to stop projects."

Alaska's U.S. senators, Lisa Murkowski and Dan Sullivan, have both opposed the mine but also opposed the EPA's pursuit of a "final determination" that they said could preclude Alaskans from devising future development projects.

"This is the wrong approach to providing certainty for Bristol Bay and stability for Alaska," Sullivan said in May, "and could threaten Alaskans' ability to responsibly develop our world-class resources in other parts of the state, for the benefit of our communities."

Like the development company's bid to get the project greenlighted, Larson and Halford say that no matter what the EPA decides, they're going to keep fighting to keep Bristol Bay pristine, including seeking legislation in Congress.

"How do you remediate what's already perfect? You can't," Larson said. "This is a never-ending battle. I'm tired and exhausted. I want to put it to rest ... but we have to make these protections durable as soon as possible."

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Citation: Both sides dig in as EPA's final decision on Pebble Mine nears (2022, October 4) retrieved 14 August 2024 from <https://phys.org/news/2022-10-sides-epa-decision-pebble-nears.html>

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