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APPENDIX C

to

Comments of Bristol Bay Native Corporation
on

EPA Region 10's Proposed Determination to Prohibit
and Restrict the Use of Certain Waters within Defined
Areas as Disposal Sites: Pebble Deposit Area, Southwest
AK;

Docket ID No. EPA-R10-OW-2022-0418

Submitted to the U.S. Environmental Protection Agency
September 6, 2022

Appendix C—Relevant Record Documents from Army Corps Administrative Record (file no. POA-2017-00271) and Associated Environmental Impact Statement for the Proposed Pebble Mine Project

In the Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act—Pebble Deposit Area, Southwest Alaska (“2022 PD”) EPA asks the public to submit comments that identify documents from the U.S. Army Corps of Engineers (“USACE”) administrative record that EPA Region 10 should consider in its decision-making process for this Clean Water Act (“CWA”) Section 404(c) action.

Bristol Bay Native Corporation (“BBNC”) closely followed the 2014 Watershed Assessment, NEPA, and CWA processes for the proposed Pebble Mine and thus has extensive knowledge of the administrative records available to support EPA’s 2022 PD. In this Appendix, BBNC has attached relevant documents from these administrative records, including the following:

- BBNC letters to the Army Corps and other permitting agencies on the EIS process, 404 permit public notice, 401 certification, transportation corridor property issues, National Historic Preservation Act issues, Coast Guard permitting;
- BBNC letters to EPA regarding the Section 404(c) process;
- Cooperating agency meeting notes from the EIS process;
- Cooperating agency correspondence to USACE (specifically letters from U.S. Fish and Wildlife Service, State of Alaska, National Marine Fisheries Service, National Parks Service, Lake & Peninsula Borough, U.S. Coast Guard, Curyung Tribal Council, and Nondalton Tribal Council);
- PLP responses to USACE Requests for Information (specifically PLP responses to RFI numbers 54, 59, 59a, 62, 69, 94, 98, and 150);
- Internal USACE and other agency memoranda regarding the project’s impacts.

These documents demonstrate the conservative nature of USACE’s Final Environmental Impact Statement findings and the concrete scientific basis for the EPA’s action to protect the headwaters of Bristol Bay from the unacceptable adverse effects from mining the Pebble deposit. Additionally, BBNC’s correspondence to EPA, USACE, and PLP over more than a decade demonstrates BBNC’s resolved opposition to the proposed Pebble Mine Project and support for EPA 404(c) action to protect Bristol Bay.

Appx. Page #s	Document Date	Description
BBNC Letters and Comments on 404(c), Watershed Assessment, EIS, and 404 Permit Application		
2 – 6	August 12, 2010	BBNC petition to EPA to initiate 404(c) process
7 – 13	June 15, 2012	BBNC letter to EPA requesting timely completion of Watershed Assessment
14 – 60	July 23, 2012	BBNC comments on EPA Watershed Assessment draft 1
61 – 94	June 28, 2013	BBNC comments on EPA Watershed Assessment draft 2
95 – 97	March 26, 2014	BBNC letter to Region 10 requesting final 404(c) determination before end of 2014
98 – 125	April 29, 2014	BBNC technical comments on EPA 404(c) 15-day letter
126 – 177	September 19, 2014	BBNC technical comments on EPA Proposed Determination
178 – 245	October 17, 2017	BBNC comments to EPA on proposal to withdrawal 2014 Proposed Determination
246 – 251	December 21, 2017	BBNC et al letter to PLP re permit application
252 – 262	March 9, 2018	BBNC et al letter to USACE re NEPA scoping process
263 – 267	June 5, 2018	BBNC et al letter to USACE re NEPA scoping process
268 – 363	June 29, 2018	BBNC technical comments on NEPA scoping
364 – 375	October 4, 2018	BBNC letter to USACE re NEPA schedule
376 – 382	December 7, 2018	BBNC letter to PLP
383 – 386	December 21, 2018	BBNC letter to PLP
387 – 391	February 5, 2019	BBNC et al letter to USACE re draft EIS process
392 – 397	April 22, 2019	BBNC letter to USACE re National Historic Preservation Act
398 – 401	April 26, 2019	BBNC request for draft EIS comment period extension
402 – 405	June 19, 2019	BBNC letter to USACE re draft EIS and BBNC lands
406 – 699	July 1, 2019	BBNC technical comments on draft EIS
700 – 709	August 5, 2019	BBNC letter to USACE re National Historic Preservation Act
710 – 712	October 16, 2019	BBNC letter to U.S. Coast Guard re Pebble Project permits
713 – 717	December 2, 2019	BBNC letter to USACE re National Historic Preservation Act
718 – 751	May 21, 2020	BBNC letter to USACE re LEDPA North Transportation Corridor and BBNC property
752 – 775	August 5, 2020	BBNC letter to U.S. Coast Guard re Pebble bridge permit applications
776 – 784	August 20, 2020	BBNC letter to USACE re National Historic Preservation Act
785 – 799	August 23, 2020	BBNC et al letter to USACE re 2020 Mine Plan 404 permit application process
800 – 856	August 24, 2020	BBNC et al letter to Alaska DEC re 401 Certification
857 – 859	August 3, 2021	BBNC et al letter to EPA re reinstate 404(c) Proposed Determination
860 – 862	October 22, 2021	BBNC et al letter to EPA re 404(c) process

Appx. Page #s	Document Date	Description
Cooperating Agency Letters, Meeting Notes, and Comments Regarding the EIS and 404 Permit Application		
864 – 1751	November 2019	Compilation of agency correspondence (2018-2019) with USACE regarding NEPA scoping, preliminary Draft EIS, Draft EIS, and 404 permit application. Documents compiled and summarized by BBNC and include the below listed correspondences. Compilation also available at: https://www.bbnc.net/wp-content/uploads/2020/05/PebbleSalmonImpact.pdf .
	June 29, 2018	Letter from EPA to USACE on NEPA scoping
	July 1, 2019	Letter from EPA to USACE on Draft EIS
	July 1, 2019	Letter from EPA to USACE on 404 permit application
	July 25, 2019	Letter from EPA to USACE re CWA Section 404(q)
	October 22, 2019	Letter from EPA to USACE re CWA Section 404(q)
	June 29, 2018	Letter from DOI to USACE on NEPA scoping
	July 1, 2019	Letter from DOI to USACE on Draft EIS
	June 29, 2018	Letter from USFWS to USACE on NEPA scoping
	July 13, 2018	Letter from USFWS to USACE on preliminary Draft EIS
	August 31, 2018	Letter from USFWS to USACE on preliminary Draft EIS
	October 1, 2018	Letter from USFWS to USACE on Draft EIS schedule
	December 21, 2018	Letter from USFWS to USACE on preliminary Draft EIS
	July 1, 2019	Letter from USFWS to USACE elevating under CWA Section 404(q)
	July 25, 2019	Letter from USFWS to USACE elevating under CWA Section 404(q)
	June 29, 2018	Letter from State of Alaska to USACE on NEPA scoping
	December 28, 2018	Email from Alaska Dept of Fish and Game to USACE on preliminary Draft EIS
	June 28, 2019	Letter from State of Alaska to USACE on Draft EIS
	April 19, 2018	Letter from NMFS to USACE on NEPA scoping
	June 18, 2019	Letter from NMFS to USACE on Draft EIS
	July 26, 2019	Letter from NMFS to USACE on Draft EIS and EFH scope of review
	August 13, 2019	Letter from NMFS to USACE on detailed criticisms of Draft EIS
	July 1, 2019	Letter from NARF/Nondalton Tribal Council to USACE on Draft EIS (w/ 8 attachments)
1752 – 1803	December 2019	Compilation of cooperating agency meeting notes from meetings in November and December 2019. Documents summarized by BBNC that demonstrate cooperating agency continuing concerns with the EIS analysis and data. Compilation also available at: https://www.bbnc.net/wp-content/uploads/2019/12/2019-12-13-Coop-Agency-Mtgs-Compilation-Final.pdf .
1804 – 2186	May 2020	Compilation of cooperating agency letters to USACE (March 2020) on the preliminary Final EIS, including concerns with EIS analysis, data, and process from the State of Alaska, EPA, USFWS, National Parks Service, Bureau of Safety and Environmental Enforcement, U.S. Coast Guard, Lake & Peninsula Borough, Curyung Tribal Council, and Nondalton Tribal Council. Compilation also available at:

Appx. Page #s	Document Date	Description
		https://www.bbnc.net/wp-content/uploads/2020/05/BBNC-Compendium-Pebble-PFEIS-Expert-Agency-Critique-May-6-2020.pdf
PLP Responses to Army Corps Request for Information (RFI)		
2188 – 2208	September 5, 2018	PLP Response to RFI #54 (Dry Stack Tailings Options)
2209 – 2214	August 6, 2018	PLP Response to RFI #59 (Project Optimization Throughput Options)
2215 – 2219	October 12, 2018	PLP Response to RFI #59a (Additional Throughput Option)
2220 – 2225	September 6, 2018	PLP Response to RFI #62 (Scenario for Expanded Development of Pebble)
2226 – 2233	September 17, 2018	PLP Response to RFI #69 (Tailings Disposal Options)
2234 – 2241	October 19, 2018	PLP Response to RFI #94 (Alternative Option to Develop Pebble East)
2242 – 2280	November 3, 2018	PLP Response to RFI #98 (TSF Options, Mine Area)
2281 – 2287	October 25, 2019	PLP Response to RFI #150 (Siting Criteria for Main Water Management Pond)
Additional Section 404 Permitting Documents, Army Corps, NEPA Contractor (AECOM), and EPA Internal Memos and Documents		
2289 – 2295	July 7, 2009	USACE Memorandum for Record re PLP meeting notes from July 7, 2009
2296 – 2299	January 1, 2014	USACE letter to PLP re wetland functional assessment
2300 – 2302	March 15, 2015	USACE internal email re PLP wetland delineation methodology
2303 – 2332	September 24, 2018	AECOM memo to USACE re RFI 054 Technical Report Review
2333 – 2242	October 25, 2018	AECOM memo to USACE re Review of Water Treatment Approach
2243 – 2386	December 17, 2018	USACE comments on PLP Compensatory Mitigation Plan (Nov. 2018 draft)
2387 – 2429	January 5, 2019	AECOM internal memo re Probabilities of Transportation Spill Scenarios
2430 – 2543	January 11, 2019	Memo to AECOM re Streamflow Change Resulting from Proposed Pebble Mine
2544 – 2566	January 31, 2019	EPA comments on PLP Compensatory Mitigation Plan (Nov. 2018 draft)
2567 – 2580	November 25, 2019	AECOM internal memo re Frying Pan Lake Mixing Model
2581 – 2612	December 13, 2019	AECOM internal memo re Bulk TSF Embankment Seismic Stability Analysis
2613 – 2635	December 16, 2019	AECOM internal memo re Seepage Control and Prevention
2636 – 2657	March 23, 2020	PLP letter to USACE re Alternative #3 not practicable because of landowner objections
2658 – 2668	May 20, 2020	EPA Whitepaper for 404(b)(1) consultation process – Impact Analyses
2669 – 2685	May 21, 2020	EPA Whitepaper for 404(b)(1) consultation process – Salmon Portfolio
2686 – 2701	June 12, 2020	EPA Memo to the File re 404(q) dispute resolution process for proposed Pebble Mine
2702 – 2814	August 18, 2020	NMFS letter to USACE re Essential Fish Habitat review

Appendix C documents submitted to EPA via email due to file size limitations of www.regulations.gov.