January 2013 | BBNC

PEBBLE WATCH

Impartial, educational, and fact-based content related to the development of Pebble mine

Pebble Limited Partnership has said that it intends to release a mine plan and file a permit application by the end of fiscal year 2012 (June 30, 2013).

This timeline may shift, but readers can get an early peek into large-scale mine permitting in this issue, which focuses on the permitting process and legislation/regulations that could affect development of the mine.

Photo: BBNC Land Department

Permitting Pebble

Permitting any large mine in Alaska is complicated, with federal, state and local permits needed before development can begin. For the Pebble project, the "cornerstone" permit is Section 404 under the Clean Water Act, related to discharging dredge or fill material (including mine tailings) into waters or wetlands. The U.S. Army Corps of Engineers approves Section 404 permits, which are subject to a federal environmental review listed under the National Environmental Policy Act (NEPA). The Corps of Engineers will serve as the "lead agency" for Pebble permitting, and will be responsible for preparing an Environmental Impact Statement (EIS) as part of the NEPA process.

"Scoping" the issue

Once a 404 permit application is filed and NEPA analysis begins, the Corps of Engineers will begin what is called "scoping," or identifying issues that need to be addressed during NEPA review. This is when many of the public participation opportunities happen. Expect meetings, chances to talk about the proposed mine plan, and the ability to submit written comments online or by mail. State permits will have their own public participation requirements. The Corps of Engineers is currently in the scoping stage for the proposed Donlin Gold Project in the Yukon-Kuskokwim region, and has created a website with mine plan documents, meeting times and comment forms. This example gives an idea of how the Pebble permitting documents/process might look: www.donlingoldeis.com.

Public input - does it make a difference?

Once the NEPA process begins, members of the public can submit written comments for various permit applications. But does that make a difference? Sharmon Stambaugh, of Alaska's Department of Natural Resources, says yes. As someone involved in scoping for the Pogo mine in Interior Alaska, Stambaugh saw design changes that came out of the public input process. "The initial design allowed for discharge into a salmon rearing area, but they ended up changing the outfall so that it minimized impact to the Goodpaster River," she said.

The type of public input that can contribute to these changes is specific, rather than "generalized comments of support or opposition," said Stambaugh. With the very technical nature of a mine plan, specific comments are usually submitted by the applicant, federal agencies or non-governmental organizations with staff scientists. Local knowledge is also welcome. "In the case of Pebble, we look forward to comments from the many residents who use the area and who have valuable local knowledge," said Stambaugh.

Visit www.pebblewatch.com for more on permitting, including a Pebble Watch permitting guide, links to NEPA, and a longer interview with Stambaugh, Alaska DNR's large mine project coordinator.

The permitting process for Pebble will be a big challenge. I don't think there's any doubt that it will be the largest, thickest environmental impact statement ever done in Alaska, maybe the nation, maybe the world. *– Ed Fogels, Alaska DNR deputy commissioner, Frontline documentary "Alaska Gold"*

Keeping track

A look at regulations, legislation and initiatives that could affect development of the proposed Pebble mine.

EPA 404(c) action

If the U.S. Environmental Protection Agency (EPA) pursues a 404(c) action in the Bristol Bay watershed, it could restrict development. The agency is working on a final Bristol Bay Watershed Assessment, which it has said will inform any decision on 404(c).

Federal legislation

In the 112th session of Congress, legislators sought to reduce or remove EPA's authority related to 404(c) through bills such as the "Mining Jobs Protection Act" and the "EPA Fair Play Act." Bills of this type could be reintroduced in the 113th session of Congress.

"Bristol Bay Forever"

This ballot initiative would allow Alaska residents to vote on a bill to require legislative approval before certain large-scale mines could be developed in the Bristol Bay area. "Bristol Bay Forever" will go on the ballot in August or November 2014 if its sponsors collect 30,169 signatures from qualified voters.

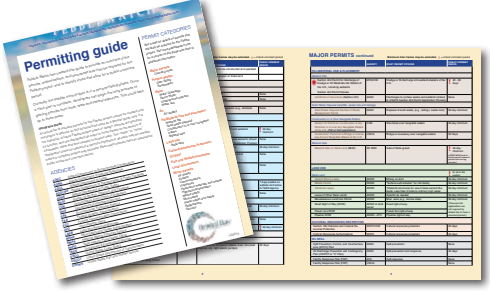
Bristol Bay Area Plan

The Bristol Bay Area Plan is a legal document that determines how land in the Bristol Bay area can be used. The state of Alaska has revised a portion of the 2005 plan and is seeking public comment through April 4, 2013.

Iliamna Lake seals

The Center for Biological Diversity petitioned the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service for threatened or endangered species protection for harbor seals that live in Iliamna Lake. NOAA Fisheries has until Feb. 18, 2013, to determine whether further review is warranted.

PEBBLE WATCH RESOURCE
Permitting Guide



Pebble Watch has revised its Permitting Guide, first developed in 2010, to show the types of permits potentially required for development of the Pebble project. The new Permitting Guide identifies which permits will have public input periods, lists agencies that will likely be involved in permitting, and includes web resources for further study. Find the Permitting Guide online at www.pebblewatch.com/resources.

Getting ready for the mine plan

The Pebble Limited Partnership (PLP) has asked stakeholders to hold off judging its project until an official mine plan is released. That plan is in production now, slated for release sometime before the end of June 2013. Pebble Watch interviewed Mike Heatwole, PLP's vice president of public affairs, for details.

Timeline • The public has been waiting for an official mine plan for years, but crafting the best plan is a complicated process involving engineers from PLP, Northern Dynasty Minerals and Anglo American. Heatwole said that any time a new component is considered, it has a domino effect on the plan. For example, making a change like increasing the size of grinding mills to get more throughput requires more power and water. So power equations and locations for power generation need to be sorted out in addition to effects on the water management plan and how to handle treatment, circulation and discharge requirements. "We're also spending significant time and resources working our way through closure," he said. "What does it look like, what do we need, how will we get land back to chemical, biological and physical stability, what is the plan for long-term monitoring?" Some other areas of the plan that are still being worked out are safety and security, quality control and workforce development.

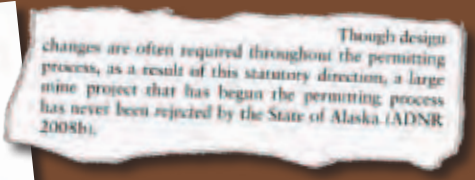
Plan rollout • PLP intends to take the plan to communities and get initial feedback from people shortly before permitting begins. "There are physical things you can't change, like where the ore body is," said Heatwole. But other aspects of the plan will change through the process. "It's helpful for folks to understand that the project that gets initially rolled out and put into permitting is not a final. There are always terms and conditions that come out of that process based on public input and technical input."

Understanding the technical aspects of the plan • PLP will be making multiple visits to different communities to make sure everyone gets a chance to see the plan presented in person. Staff members are working on explaining complicated terminology and concepts in layman's terms, as well as possibly having multiple versions of the plan — an in-depth version for those who want details, as well as a "lighter" version that gives more of an overview.

Recommendations from the Keystone process • Heatwole said that PLP benefited from some of the pointed questions and discussion at the Keystone science panels (see the October issue of *Pebble Watch* for details). "It brought folks together to get questions and issues on the table in a constructive way. We're awaiting the final report from Keystone to see if there are additional studies that could be helpful. Some of these things you can continue to work on even as you roll into permitting, since the permitting window is really long."

Permitting claims

How true are statements you may hear about permitting large mines in Alaska?


Though design changes are often required throughout the permitting process, as a result of this statutory direction, a large mine project that has begun the permitting process has never been rejected by the State of Alaska (ADNR 2008b).

Left: Alaska Miners Association presentation, June 2012 Above: Report from Wild Salmon Center/Trout Unlimited, January 2012

Once the permitting process has begun, the state of Alaska has never before rejected a large mining project.

TECHNICALLY TRUE.

But it's more complicated than that, says Sharmon Stambaugh, large mine project coordinator for the Alaska Department of Natural Resources (DNR). "We say no all the time. We make people go back to the drawing board, modify this, review that, flesh this part out. Sometimes what happens is that the applicant says 'No' itself. For example, the Alaska-Juneau gold mine project in Southeast was never permitted because there were so many aspects of that project that didn't prove to be viable — human health issues, potential impacts to water supply, no good way to discharge tailings."

Since the permitting process is open-ended and "iterative," a developer can continue to submit change after change in an effort to get to a plan that meets all regulatory requirements. With a prospect as large as Pebble, it is likely that developers will go forward with multiple revisions to get the permits they need. At its essence, this claim suggests that once Pebble permitting begins, the state will approve the necessary state permits. This quote from the PBS Frontline documentary *Alaska Gold* seems to back that up:

"If the company can meet all the standards in their design, then we may have no choice but to permit it. If they can show that water quality will be protected and that air quality will be protected and the fish and wildlife resource will be protected, then, you know, essentially they're due a permit."

Alaska DNR deputy commissioner Ed Fogels

Alaska is viewed in a negative light by the industry because of its regulatory process and length of time for getting permits.

NOT NECESSARILY.

According to a January 2012 report on "The Economic Impacts of Alaska's Mining Industry," there were 81 significant exploration projects in Alaska in 2010, including 34 projects each with expenditures for the year of more than $1 million. Most of this exploration funding came from Canadian and other international sources.

And the Fraser Institute's 2011/2012 survey of 802 mining companies around the world ranked Alaska in the top 25 for "policy potential," or how well different factors encourage investment. Factors included in the survey were: existing regulations; environmental regulations; regulatory duplication and inconsistencies; taxation; uncertainty concerning native land claims and protected areas; infrastructure; socioeconomic agreements; political stability; labor issues; geological database; security; and corruption.

In the same report, a consultant company is quoted saying, "Alaska, during transition to statehood, settled all native land claims. The resulting land tenure certainty and entrepreneurial native corporations have given Alaska stability that neighbouring provinces can only dream of."

Find links to these reports at www.pebblewatch.com/resources.

Alaska has the world's most stringent regulatory system.

MAYBE, BUT NEEDS BACK UP.

This statement can be used as an assurance that the regulatory process is more protective in Alaska than anywhere else, but it is difficult to find research or comparisons that back this claim up. PLP has a less general version of the statement on its website: "The process of environmentally permitting a large hard rock mine in Alaska is exhaustive and complex, with some of the most stringent environmental standards in the world."

According to Sharmon Stambaugh, of Alaska DNR, the state does differ from other areas, especially in terms of water quality standards. "A lot of states rely on federal standards, but because Alaska protects most of its water for all uses, including aquatic life, it has set very stringent state standards." Stambaugh said the permitting process is more complex due to factors such as land-ownership, endangered/threatened species, anadromous fish, and issues with access to sites. Once a site opens, there are permit-required environmental audits every five years. "To our knowledge, these environmental audits are not generally standard requirements in other jurisdictions," said Stambaugh.

But does that mean Alaska has the world's most stringent standards? It's unclear until a factual comparison is conducted.

RESOURCE FACT

The state of Alaska Office of Project Management and Permitting (OPMP), under the Department of Natural Resources (DNR), coordinates all state agency permitting with an interagency Large Mine Permit Team (LMPT). This team works with federal and local permitting agencies to streamline the process. Find a link to its site at www.pebblewatch.com/resources.

PEBBLE WATCH

111 W. 16th Ave., Ste. 400
Anchorage, AK 99501

Pebble Watch is an impartial, educational and fact-based resource for sharing information about the proposed Pebble project. It is a program of the Bristol Bay Native Corporation Land Department. Questions? Call (800) 426-3602.

"Like" Pebble Watch on Facebook for regular updates. For more in-depth stories, a copy of this newsletter, calendar of relevant events, and links to helpful resources, visit www.pebblewatch.com.

In this issue: Permitting Pebble - the process and public input • Regulation/ legislation that could affect the proposed Pebble mine • Claims about permitting mines in Alaska. How true are they? • Interview with Pebble's vice president for public affairs

Coming up

Pebble-related events and documents on the horizon.

Keystone Center | *www.keystone.org*

Report from October science panels • Keystone Center has been working on a report detailing comments and suggestions from scientists who participated in the Keystone dialogues held in Anchorage in October 2012. The science panels focused on the Pebble Limited Partnership's environmental baseline document. The Keystone report is anticipated in early 2013.

New science panel slated for April 2013 • Keystone is planning a two-day panel on wetlands, vegetation, wildlife and endangered animals to be held in April in the Bristol Bay region. Watch for details online at www.keystone.org.

Pebble Limited Partnership | *www.pebblepartnership.com*

Mine plan and permitting • The Pebble Limited Partnership has said it intends to release a mine plan and beginning the permitting process by the end of fiscal year 2012 (June 30, 2013). PLP has told Pebble Watch it intends to visit Bristol Bay communities to discuss the mine plan ahead of permitting.

EPA | *www.epa.gov/bristolbay*

Bristol Bay Watershed Assessment • EPA has been working on revisions to its draft watershed assessment after receiving comments from the public and suggestions from peer reviewers. It intends to have scientists review the final before it is released to the public. Last year, EPA had said it would publish the final by the end of 2012, but has since said it is not putting a timetable on the revision process.

PEBBLE WATCH HEADS-UP

Public Comment

Revisions to the 2005 Bristol Bay Area Plan are up for public comment. The Department of Natural Resources (DNR) has proposed revisions, adding new land-use designations for certain areas. Find details at www.pebblewatch.com, including a link to an online comment form.

Comments must be received in writing by DNR by April 4, 2013.

email: dnr.bbapamend@alaska.gov

fax: (907) 269-8914

mail: Ray Burger, Resource Assessment and Development
Alaska DNR
550 W. Seventh Ave., Suite 1050
Anchorage, Alaska 99501-3579

online: **dnr.alaska.gov/mlw/planning/areaplans/bristol/amend/comments/**