

EPA & Bristol Bay: Main events

May 2010 – Requests for 404(c) action

Nine federally recognized tribes and other organizations ask EPA to use Clean Water Act authority to stop Pebble mine development.

Feb 2011 – Study period

EPA announces a watershed assessment plan to study the area before responding to tribes. A study period begins, during which EPA interviews Bristol Bay area residents, collects scientific information, and gathers input from other government agencies and tribes. EPA drafts the first version of the assessment, providing updates to the public along the way.

May 2012 to Jan 2014 – BBWA drafts/review/revisions

EPA releases two drafts of the Bristol Bay Watershed Assessment (BBWA) during this time, both followed by public input periods and peer review. Each draft lands in the top 10 of most-commented-on documents in EPA history.

Jan 2014 – Final BBWA released

The final report finds that large-scale mining in the studied watersheds would have inevitable negative effects on salmon in Bristol Bay. Developers contend that the BBWA is flawed and that it contains worst-case scenarios. The EPA stated it depicted modern mines with the same basic elements the Pebble project is likely to have: an open pit and large quantities of waste rock that would have to be stored in perpetuity.

Feb 2014 – 404(c) action announced

EPA responds to Tribes by announcing its intent to pursue the 404(c) process to protect Bristol Bay. “The Bristol Bay fishery is an extraordinary resource, worthy of out-of-the-ordinary agency actions to protect it,” stated Gina McCarthy, EPA’s Chief Administrator.

May 2014 – BBWA process investigated

PLP calls on EPA to halt its 404(c) process, files its first lawsuit, and asks Congress to look into how the agency developed the BBWA. The EPA Inspector General’s office announces that it will conduct an investigation.

July 2014 – Proposed Determination released

EPA releases its recommendation for restrictions in a limited geographic area at the Pebble deposit, followed by 7 public hearings. The agency receives more than 671,000 comments.

Sept/Oct 2014 – PLP files lawsuits

Pebble Limited Partnership files 2 more lawsuits against the EPA, saying the agency is unfairly blocking normal permitting.

Nov 2014 – EPA ordered to halt the process

EPA is working on reviewing public comments when a Federal judge signs a preliminary injunction ordering the agency to halt work on the Proposed Determination pending a resolution on the case.

Oct 2015 – Cohen Report released

William Cohen, who had been hired by PLP to conduct his own investigation into the EPA’s actions related to BBWA, releases his report. He concluded that moving ahead with a Section 404(c) action before permitting began was not “fair to all stakeholders,” and he called for further investigation from the Inspector General and Congress.

Jan 2016 – IG Clears EPA of Bias

After a 20-month investigation, the Inspector General concludes – based on records it could obtain – that there was no evidence of bias or wrong-doing on the EPA’s part. However, it did find that a former employee may have misused his position when using his personal email to comment on a draft of the Alaska Native tribes’ 404(c) petition before it was submitted to EPA.

May 2017 – EPA/PLP announce settlement

Under the leadership of a new EPA Chief Administrator, Scott Pruitt, the Agency settles litigation with PLP. EPA agrees to begin proceedings to withdraw the Proposed Determination, but can use the BBWA in future without limitation. Developers move forward with preparations for permitting.

July 2017 – EPA proposes withdrawal

EPA proposes to withdraw the 2014 Proposed Determination to allow PLP to submit a permit application without the “uncertainty, real or perceived” about its ability to submit an application and have it reviewed. During a 90-day comment period, more than 1 million comments are received. EPA staff visit 2 Bristol Bay communities to take comment in person.

Dec 2017 – PLP submits permitting application

After announcing a framework agreement to partner with First Quantum Minerals Ltd., PLP submits permitting documents to the United States Army Corps of Engineers (USACE), kicking off what it anticipates to be a 3- to 4-year permitting process.

Jan 2018 – EPA suspends its withdrawal

Citing public input and potential for risks to the Bristol Bay fishery, EPA suspends its proposal to withdraw the Proposed Determination. The permitting process will continue and the Agency will gather more information on the project’s impact to fish and natural resources.