

# EPA & Bristol Bay: Timeline of Events

## 2010 REQUESTS FOR 404(C) ACTION

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**May** – Nine federally recognized tribes and other organizations ask EPA to use Clean Water Act authority to stop Pebble mine development. EPA announces a watershed assessment plan to study the area before responding to tribes.

## 2011 STUDY PERIOD

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**Feb** – 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.

## 2012-2013 BBWA DRAFTS/REVIEW/REVISIONS

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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.

## 2014 PROPOSED DETERMINATION & LAWSUITS

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**Jan** – The final BBWA is released, finding 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. EPA states 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 needing to be stored in perpetuity.

**Feb** – 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,” states Gina McCarthy, EPA’s Chief Administrator.

**May** – 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 it will conduct an investigation.

**July** – EPA releases the Proposed Determination, with recommendations 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** – Pebble Limited Partnership files 2 more lawsuits against the EPA, saying the agency is unfairly blocking normal permitting.

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

## 2015 COHEN REPORT RELEASED

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**Oct** – William Cohen, who had been hired by PLP to conduct his own investigation into EPA’s actions related to BBWA, releases his report. He concludes 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.

## 2016 IG CLEARS EPA OF BIAS

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**Jan** – 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.

## 2017 EPA/PLP SETTLEMENT & PERMIT APPLICATION FILED

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**May** – 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** – 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** – 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.

## 2018 EPA SUSPENDS PROPOSAL TO WITHDRAW PD

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**Jan** – Citing public input and potential for risks to the Bristol Bay fishery, EPA suspends its proposal to withdraw the Proposed Determination. The Agency states it will gather more information on the project’s impact to fish and natural resources while the permitting process continues. However, the USACE is unable to finalize a permit decision until the 404(c) process is resolved. “Lifting the veto” continues to be a main concern for PLP and Northern Dynasty investors.

## 2019 EPA SUBMITS CONCERNS WITH DEIS; PD WITHDRAWN

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**June** – EPA’s General Counsel Matthew Leopold directs Region 10 Administrator Chris Hladick to resume consideration of withdrawing the Proposed Determination.

**July** – As part of the permitting process, EPA submits comments on the USACE Draft Environmental Impact Statement (DEIS), noting the document “likely underestimates impacts and risks to groundwater and surface water flows, water quality, wetlands, aquatic resources, and air quality from the Pebble Project.” This also triggers the 404(q) process, which may lead to elevation of future unresolved issues to EPA Headquarters if EPA determines the project “will affect” Aquatic Resources of National Importance.

Later in the month, Region 10 Administrator Chris Hladick announces revocation of the Proposed Determination, stating that the 5-year old document does not consider the full record of information now available, including PLP’s project plan and additional information considered during the USACE permitting process. EPA says it will continue to work with the USACE as a cooperating agency throughout the process.