



DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 6898
JBER, AK 99506-0898

November 25, 2020

Regulatory Division
POA-2017-271

Pebble Limited Partnership
ATTN: Mr. James Fueg
3201 C Street, Suite 501
Anchorage, Alaska

Dear Mr. Fueg:

This regards your June 8, 2020 revised application for a Department of the Army (DA) permit to discharge fill and dredged material into waters of the U.S. and work in, and placement of structures in navigable waters of the U.S. to facilitate the development of a copper, gold, and molybdenum mine and the supporting infrastructure. The proposed project would include a natural gas pipeline across Cook Inlet, a port and a transportation corridor from the port to the mine site. Pebble Limited Partnership's (PLP) proposed project location is in southwest Alaska, near Iliamna Lake, approximately 200 miles southwest of Anchorage and 60 miles west of Cook Inlet. The mine site and a majority of the proposed supporting infrastructure would be located in the Lake and Peninsula Borough with the remainder of supporting infrastructure located in the Kenai Peninsula Borough.

The United States Army Corps of Engineers, Alaska District, Regulatory Division (USACE) completed a substantive analysis under the 404(b)(1) Guidelines and determined discharges of fill material from the proposed project would cause unavoidable adverse impacts to aquatic resources which would result in Significant Degradation to aquatic resources. In a letter dated September 20, 2020, USACE identified specific compensatory mitigation requirements that are required to compensate for those impacts. On November 4, 2020, PLP provided a compensatory mitigation plan that was not compliant with rule (33 CFR Part 332 and 40 CFR 230) and therefore does not ensure the activities requiring a section 404 permit comply with the 404(b)(1) Guidelines.

Additionally, USACE evaluated the probable impacts, including cumulative impacts, of the proposed project and its intended use on the public interest. The benefits of the project were evaluated with consideration of the reasonably foreseeable detriments. The outcome of the public interest review resulted in the determination that the project is contrary to the public interest.

The district engineer has determined that issuance of a permit for the proposed project described in your June 8, 2020 application would not comply with the 404(b)(1) Guidelines and would be contrary to the public interest. Accordingly, the district engineer is denying your application for a DA permit. The enclosed Record of Decision outlines in detail the reason for the denial of a permit for your proposed work. I am informing the Cooperating Agencies for the development of the Environmental Impact Statement of the decision by copy of this letter.

Also enclosed is a Notification of Administrative Appeal Options and Process and Request for Appeal form regarding this Department of the Army Permit action (see section labeled "Permit Denial").

The Record of Decision (ROD) is currently in production to convert the documents into PDFs. The ROD will be provided as soon as the conversion has been completed.

Please contact me or Shane McCoy, of my staff, via email at poaspecialprojects@usace.army.mil, by phone at (907) 753-2715 if you have any questions.

Sincerely,

David S. Hobbie

David S. Hobbie
Chief, Regional Regulatory Division

Enclosure

CF:
poaspecialprojects@usace.army.mil

Applicant:
Mr. James Fueg, jamesfueg@pebblepartnership.com

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Pebble Limited Partnership		File Number: POA-2017-00271	Date: 25 NOV 2020
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
X	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Shane McCoy, Program Manager
Alaska District Corps of Engineers
CEPOA-RD
P.O. Box 6898
JBER, AK 99506-0898
(907) 753-2715

If you only have questions regarding the appeal process you may also contact:

Regulatory Program Manager
U.S. Army Corps of Engineers, Pacific Ocean Division
CEPOD-PDC, Bldg 525
Fort Shafter, HI 96858-5440

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: