



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

DEC 26 2017

CEPOA-RD

MEMORANDUM FOR RECORD

Subject: Determination to conduct an environmental impact statement level of analysis for Department of the Army Permit Application POA-2017-271, lead agency determination, and scope of analysis.

1. The US Army Corps of Engineers, Alaska District received a Department of the Army Application from Pebble Limited Partnership (PLP) on 22DEC2017. The Proposed Pebble Project (Project) is located in southwest Alaska near Iliamna Lake, primarily within the Lake and Peninsula Borough with a portion of the supporting infrastructure in the Kenai Peninsula Borough. PLP proposes to develop existing State of Alaska owned mine claims at the Pebble deposit located approximately 200 miles southwest of Anchorage, approximately 60 miles west of tidewater on Cook Inlet and 17 to 19 miles from the nearest communities of Iliamna, Newhalen and Nondalton.
2. The applicant's project as proposed would require the discharge of fill material into waters of the United States to facilitate development of the Pebble copper-gold-molybdenum porphyry deposit as a surface mine. The proposed Project consists of four primary project elements: the mine site, the Amakdedori Port, the transportation corridor, and the natural gas pipeline.
3. The discharge of fill material and work in navigable waters for the proposed activities requires authorization under Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act (RHA) respectively. At this time, there is no proposed activity requiring authorization under Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA).
4. A permit decision under Section 404 and Section 10 constitutes a major federal action. The Corps scope of analysis for the proposed project includes the mine site, the Amakdedori Port, the transportation corridor, and the natural gas pipeline. After review of the application, the Corps has determined the proposed activities within our scope of analysis would result in significant environmental impacts.
5. The Corps reviewed all standard public interest review factors within the following contexts to determine significance

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Public Interest Review Factor	Context(s)
Conservation	Regional
Economics	Regional
Aesthetics	Viewsheds that include the site-Local
General Environmental Concerns	Local, Regional, State, National, Global
Wetlands	Site and remainder of subwatersheds and watershed (Local, Regional)
Historic properties	Sites identified within the Corps Scope of Analysis (local, potentially regional)
Fish	Local, Regional, State, National, Global
Wildlife Values	Local, Regional, and Endangered Species
Soils	Project construction sites and adjoining properties (local)
Flood hazards	Project construction sites and adjoining properties (local)
Floodplain values	Project construction sites and adjoining properties (local)
Land use inclusive of subsistence subset	Project construction sites and adjoining properties (local, regional)
Navigation	deep water port construction and usage local, regional, state, national, global
Shore erosion and accretion	deep water port construction and usage local, regional
Recreation	State owned and private land (corporation owned land), local, state
Water supply and conservation	Local
Water quality	Local, regional
Energy needs	Power supplies to mine site and port facilities local, regional
Safety	Project construction sites and adjoining properties local, regional
Food and fiber production	Potential effects to fisheries, local, regional, state, global
Mineral needs	Precious metals resource extraction international market, global
Considerations of property ownership	Project construction sites and adjoining properties local, regional, state
Needs and welfare of the people.	Local, regional, state
Noise	Areas where estimated noise levels generated by the action could be audible (local), regional, potential effects to marine mammal populations Cook Inlet Beluga Whale, Sea Otter.

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6. The Corps has determined that the proposed project would result in significant environmental impacts and that an environmental impact statement level of analysis is required for compliance with the National Environmental Policy Act due to the following specifically identified intensity factors:
  - a. The unique characteristics of the Bristol Bay region to include essential salmon habitat for five species of pacific salmon including supporting wetlands and aquatic resources, unique fresh water seal population of Lake Iliamna (§ 1508.27(b)(3)) in local, regional, national and global contexts § 1508.27 (a)
  - b. The history of controversy and litigation associated with the potential effects on the quality of the human environment (§ 1508.27(b)(4)). The controversy exists in the local, regional, national and global contexts (§ 1508.27(a)); and
  - c. The potential for the mining infrastructure, transportation corridor and port facility to establish a precedent for future actions of similar nature and significant effects to expand throughout the region (§ 1508.27(b)(6)), local and regional context (§ 1508.27(a)).
7. Preliminary review of the application reveals multiple federal decisions/actions would be necessary for the proposed project. Please see the attached table of potential federal actions.
8. Lead Agency Determination: The Corps has the greatest jurisdictional role of all federal action agencies and thus will be the lead agency responsible for managing the environmental impact statement process, including those portions which come under the jurisdiction of other Federal agencies. The Corps will utilize a third party contractor to develop the environmental impact statement. Federal agencies will not be asked to participate outside of their specific jurisdictions.
9. Scope of Analysis Determination: Preliminary review of the application indicates the Corps jurisdiction extends to all four major project components and that the Corps permit actions would facilitate the construction of the larger project thus the environmental consequences of the larger project are essentially products of the Corps permit action. In addition, multiple other federal agencies have jurisdiction over additional portions of project components thus those environmental consequences would also be products of those federal authorizations/regulations.

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In addition to the authorizations listed above, Federal actions require review under the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.* ), the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.* ), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.* ), Executive Order 11990, Protection of Wetlands, (42 U.S.C. 4321 91977), and other environmental review laws and executive orders.

Therefore, federal control and responsibility is sufficient to grant legal control over portions of the project beyond the limits of the Corps jurisdiction thus the scope of analysis will include jurisdictional (waters of the U.S.) and non-jurisdictional (upland) project components and this scope will be used for analyzing impacts, alternatives, and benefits of the proposal.

**Original Signed**

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