

USACE Media Teleconference 8-22-2019

John Budnik – USACE

Dave Hobbie – USACE

Tim Sohn – Outside Magazine

David Owen – Owen Investments

Mariah Oxford – Pebble Watch

Grant Robinson – KTUU

Margie Bauman – Fisherman's News

Richard Read – LA Times

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Ashley Braun – Hakai Magazine

Yereth Rosen – Reuters

Liz Ruskin – Alaska Public Media

Dylan Brown – E&E News

John Budnik: Thank you for joining us today for our discussion about the Pebble Project Environmental Impact Statement. The purpose for today's teleconference is to give a general status update on where the Corps is in the EIS process, again my name is John Budnik, with me today is Mr. David Hobbie, Chief of our Regulatory Division. We've allotted one hour for this session, with Dave delivering some opening remarks, and then we'll turn it over to the pool for questions. Just as a courtesy, kindly ask everyone to place their phone on mute unless they're asking a question. Please hold your questions until after Dave's initial statement and please be sure to state your name and affiliation when asking a question. Full disclosure, this call is being recorded to provide a transcript at a later time, before we get started, I'd like to do a quick roll call just to know who's on the line, I'm just going to go through the RSVP list, in order of the RSVPs that I received. Without further ado, is Mr. Tim Sohn Outside Magazine, on?

Tim Sohn: Yeah, I'm here John, thanks.

John Budnik: Good morning, Tim. Is Becky Bohrer, Associated Press? [silence] No Becky. Erin Ernst, with Frontline? [silence] No Erin. David Owen?

David Owen: I'm here John.

John Budnik: Good morning, David. Liz Ruskin, Alaska Public Media? [silence] No Liz. Steven Lee, Bloomberg Environment? [silence] No Steven. Jill Burke, Bloomberg Environment? [silence] No Jill. Dylan Brown, E&E News? [silence] No Dylan. Mariah Oxford, Pebble Watch?

Mariah Oxford: I'm here, good morning.

John Budnik: Good morning, Mariah. Margie Bauman, Fisherman's News?

Margie Bauman: I'm here, just popped on. Thank you.

John Budnik: Good morning, Margie. Grant Robinson, KTUU?

Grant Robinson: I'm here, good morning John.

John Budnik: Hey, good morning, Grant. Hannah Wineberger, KRASKA? [silence] No Hannah. Richard Read, LA Times?

Richard Read: Yes, right here.

John Budnik: Good morning, Richard. Karen Ducey, freelance?

Karen Ducey: Yes, good morning.

John Budnik: Good morning. Tim Bradner, writing for Platts Metals and Alaska Legislative Digest?

Tim Bradner: I'm here John.

John Budnik: Good morning, Tim. Ashley Braun, Hakai Magazine?

Ashley Braun: Good morning, right here.

John Budnik: Good morning, Ashley. Yereth Rosen, Reuters?

Yereth Rosen: I'm here.

John Budnik: Good morning, Yereth. And Michael Chee, are you on? [silence] No Michael Chee. Is there anybody on the call who I did not call your name? I did hear a couple beeps there of late joiners.

Liz Ruskin: Liz Ruskin, Alaska Public Media.

John Budnik: Good morning, Liz.

Liz Ruskin: Hello.

John Budnik: Anyone else? Becky Bohrer, Erin Ernst, Steven Lee, Jill?

Dylan Brown: Dylan Brown's here.

John Budnik: Good morning, Dylan. Alright, let's go ahead and turn it over to Dave Hobbie for some opening statements.

Dave Hobbie: Good morning everybody. At least in Alaska it's still morning, so good morning everybody, hope you're all having a good day. Again, thanks for calling in, appreciate it. I just wanted to have a couple of opening remarks on a couple of things as a reminder to everybody. We try to do this monthly to be sure we're being as communicative and as transparent as possible with this process and as we continue to process the Pebble Mine application. But with that in mind, we also want to be sure that we always provide accurate information, and the reason I state that is, I read a couple of articles lately that kind of made me scratch my head a little bit, so I want to make sure we're clear, one in particular with regards to our consultation process with National Marine Fisheries Service, although National Marine Fisheries Service chose not to be a cooperating agency in this process, that does not mean that we are not coordinating with the agency. We have obligations under Endangered Species Act and under the Magnusson Stevens Act, which we're doing. So, we are in close consultation with them throughout this process, again they chose not to act as a cooperator, but that does not mean that they don't have comments and that doesn't mean that we don't coordinate and consult with them on these issues. So, I wanted to make sure, if we failed to do so in the past, that we are reiterating that and being clear. There's a lot of players here, and based on their status they all have a different role, but we are still coordinating and consulting with these folks. So, thank you John Budnik.

John Budnik: Thank you Dave, we'll just go ahead here and go through the list for questions. First up is Tim, Tim Sohn, that is.

Tim Sohn: Thanks John. I missed the last call, so forgive me if any of this is being said again. The first thing that I want to comment on is the EPA decision and if that has any effect on your process going forward, or whether that impacts any sort of, this ongoing, I assume, coordination with them over the course of the process, whether that has any additional impact on your process going forward?

Dave Hobbie: I'll make an assumption that you're talking about the withdrawal of the 404c, their veto?

Tim Sohn: Was it withdrawal of the 404c? We had earlier discussed that at the end of the EIS process there would have to be some sort of a resolution of that so I was hoping you could provide—

Dave Hobbie: To answer your question, no it does not affect our process at all. We're still processing the permit application. However, I do want to be clear, although they withdrew their preemptive 404c veto, they still have the authority at the end to veto this project if they choose to do so. That does not take that option off the table for EPA.

John Budnik: Did you have a follow up there Tim?

Tim Sohn: OK, yes. I guess the other follow-up would be, whether the meeting between [inaudible] whether there was any consultation with anyone from the Corps or anyone in the administration during that same process?

Dave Hobbie: Not that I'm aware of. Nothing in my office, no one has told me there was any consultation so I would have to say no.

Tim Sohn: OK, thanks.

John Budnik: Thank you, Tim. Next up is David Owen.

David Owen: Hi David. I was just wondering how are the responses to the cooperating agencies' DEIS comments progressing?

Dave Hobbie: Well, a couple weeks ago we had week long meetings with all of the agencies, all of the cooperating agencies and the tribes that cooperated, we call them our technical meetings. So, we spent a week with these folks going through their comments kind of in a dual role: one was to ensure we understood what their comment was, what they were asking, what their concern was, and then number two, in the areas we could, try to address some of those concerns. In some instances, it was just pointing out where that information was in the EIS or where that hadn't been clarified to find out what else we need to do. I would say they're progressing well, but again, a lot of comments and a lot of comments from agencies so there will be a lot of follow-on meetings as we move forward with trying to address their comments to make sure that one, we're addressing their comment and their concern to the best of our ability, and number two to determine if there's some sort of additional information or data that we need to gather. But I would say they're progressing well at this point.

David Owen: Good. I understand that many of those agencies' concerns have in fact been addressed in other sections of the DEIS but they may have been overlooked, and presumably the Corps will direct the agencies to those sections in their responses, is that correct?

Dave Hobbie: That is correct, Sir.

David Owen: When will the [inaudible] EIS [inaudible] the Preliminary Final Environmental Impact Statement?

Dave Hobbie: Right now, we're scheduled to the end of December, to be wrapping up those responses that have that go out back out to the agencies to have more discussions with them. So, we're looking to have our draft responses done by December, and then they'll take a look at the responses and we'll go from there.

David Owen: I believe last month you were saying perhaps you'd have that finished by the end of October, beginning of November, so that's been pushed back.

Dave Hobbie: Well, that's our hope, I actually think we will have it done in that timeframe, but the challenge is, as we're all aware, holidays are coming up in November and December. So, our plan is still late October, early November to have that information to them, but sitting down and actually having those in-depth discussions, based on the holiday schedule. We actually

think it's going to happen a little bit later than that. Overall, we do not believe it will impact the overall schedule at this point.

David Owen: OK, thank you.

John Budnik: Thank you, David. Next up is Liz Ruskin. [silence] Liz are you there? [silence] Moving on then, Dylan Brown?

Dylan Brown: All good for now John, thanks.

John Budnik: Thank you Dylan, Mariah?

Mariah Oxford: Good morning. I have a question related to the document that the EPA released explaining why it's withdrawing the proposed determination. In that document, it addressed why it's not opening public comment for the action and stated that the because the Corps has provided opportunities to comment on the Draft EIS and the public has an opportunity to comment on the Final EIS that was one of the reasons why they weren't providing that opportunity. So that sounds interesting to me since I know that you have seen this before, but you don't plan on providing a public comment period on the final. Could you comment on that statement from the EPA?

Dave Hobbie: What I can comment on is that that statement was not coordinated with us. At the end of the day, the way that the regulations read, there is a possible option for that to happen, but that is not our normal processes. To my knowledge we've never done that. So, it'll be one of those things that we look into. I'm not saying that it's not a possibility, but right now, again, we the Corps make that determination at the appropriate time, so I cannot speak for the EPA's comment. Again, that was not coordinated with us.

Mariah Oxford: As a follow-up, as of right now, you don't have any plans to have a public comment period after this Final EIS is released?

Dave Hobbie: That is correct, not at this time.

Mariah Oxford: OK, thank you.

John Budnik: Thank you, Mariah. Next up is Margie.

Margie Bauman : Hold on one second, I'll be right there.

John Budnik: I'll tell you what, we'll circle back with you.

Margie Bauman : Come back to me, yes. Thank you.

John Budnik: Grant?

Grant Robinson: Yes, thank you. Dave can you help explain and put into terms that would be easier for the folks at home to understand what the 404 part (q) process is and how that pertains to the relationship between the EPA and the Army Corps and where we are right now with that?

Dave Hobbie: I'll do my best, 404q allows for elevation of the process or decision. If, for example Fish and Wildlife Service, EPA, or National Marine Fisheries are in adamant disagreement with the decision they think we're going to make. Now, we have an MOU in place with each one of those agencies that outlines the process for the elevation. The way the process reads is that there are certain steps that each one of those agencies would have to make sure they have that right of elevation if they chose to do so. I'm sorry, to be clear, MOU stands for Memorandum of Understanding between those agencies and us, that outlines that process. So, in that process, they must first identify that they believe there is a resource that is of national importance there, which Fish and Wildlife and EPA did. They sent us what's called a 404(q)(a) letter that notifies us of that, and then within 25 days they need to send us what's called a 404(q)(b) letter that says we now believe that yes there would be impacts to these areas so we want to retain our elevation rights. Fish and Wildlife Service sent their letter within the 25 day period, USEPA did not, USEPA was granted an extension through our Assistant Secretary of the Army for Civil Works, so they'll have 90 days to determine whether or not they want to send that (b) letter.

Grant Robinson: OK, so when they return that letter it's either going to state—they've already said that they believe it has some negatives and or substantial unacceptable impacts to those aquatic resources of national importance, if they write back saying that it will, what impact does that have on the Army Corps' process, the permitting process?

Dave Hobbie: What happens after that is at the end, we make our final decision, we have to send that final decision to Fish and Wildlife Service, that says here's our decision. They have 15 days to review that and then choose to elevate it. They can do one of three things: They can do nothing. They can choose to elevate it, or withdraw their objection. If they elevate it then it gets sent on to senior officials at that respective agency and the ASACW, our Assistant Secretary of the Army for Civil Works, at which point a decision would be made. To be clear though, the Army is still the person that makes that decision.

Grant Robinson: OK, one kind of final thing. And you mentioned this earlier, but I wanted to get more direction to it. In terms of the timeline that the Army Corps has distributed for this permitting process is it still the same as what's online or has anything changed that?

Dave Hobbie: No, it's still current with what's online.

Grant Robinson: OK, thank you.

John Budnik: Alright, thank you, Grant. Next is Richard Read, LA Times.

Richard Read: Hi. So, I wasn't on the last call, apologies if you already handled this, but I've been reading some of the comments by other agencies, and the one that really stuck out to me was the Department of the Interior, which said the DEIS was so inadequate that it precludes meaningful analysis. Therefore, we recommend that the Army Corps prepare a revised or supplemental EIS to resolve the significant gaps in the current document. What's your reaction to that, or comment?

Dave Hobbie: We appreciate their comments, at the end of the day what I'd say is one, the Corps of Engineers actually does about 50,000 NEPA reviews a year, plus. We're pretty good at it. I would say other agencies probably aren't close to that. Not that we don't appreciate their comments, and we'll take them into consideration. But that's what it is. We also have comments that say they think the NEPA document is very well written. So, again, we're more focused on very specific issues that they've brought up in their comments that we can try to address, versus generic statements.

Richard Read: Well, they're saying that there's an over-reliance on qualitative, subjective, and unsupported conclusions, which then they list.

Dave Hobbie: And that's correct, and we will look into those. Doesn't mean we'll agree with them though. We will address those in our responses.

Richard Read: OK. The process does seem to be relying a lot, at this stage, on requests for information, some of which are pretty basic. Groundwater models, reclamation plans, seepage analysis, geotechnical work, those would be the kinds of things that I would have thought would have been included in the original DEIS. So, is this unusual to have this many RFIs? How many more do you anticipate?

Dave Hobbie: I have no clue how to anticipate how many more we'll need. What I can tell you is that we've done something a little bit different here on this project. I think we've talked about this before, but just to be a little bit clearer, typically what we would do is we might send out an RFI once every 3 or 4 months and it might have a hundred questions to it. In this particular project, any time a question comes up we submit an RFI, so sometimes they may get a series of 10 or 20 RFIs in a week because we're asking the questions in real time, so to speak, versus trying to bundle them. Thus far they've been very good about it and being responsive to the questions we've had. A lot of the questions we've had about groundwater modeling is about clarification of the data. It's not just about it doesn't exist, it's more about trying to help us understand what this means sort of questions versus something that is totally missing or lacking.

John Budnik: Thank you, Richard. Next is Karen, Karen Ducey.

Karen Ducey: Good morning. I was just looking for some kind of update since the last call. I'm wondering if there's anything new since we talked last month. I know you guys got about 116,000 comments, so I was just wondering how far you've gotten through all those comments and anything else that you guys might have done in the last month.

Dave Hobbie: I can't give you a number that we're through. But I can tell you, just a couple weeks ago we had a week-long set of technical meetings with the cooperating agencies to ensure that we understood what their comments were, what their concerns were, and to address what we could within that week. We'll continue having face-to-face discussions though. So, again, I think we are making good progress but I can't tell you we've made it through 50,000 comments or anything like that. I don't have that exact number.

Karen Ducey: OK. How about other things that you guys have been doing in the last month?

Dave Hobbie: We've been looking at where there might be data gaps to make additional requests for information to the applicant where we need to fill in those data gaps. There are a lot of comments where we understand the comments, and as we talked about a bit earlier, some of those comments or issues are already addressed in the EIS, so going back and verifying that they are addressed and that we did a good job addressing them. So, if we need to clarify anything better. That's the bulk of the work we've been doing in the last month. Also working with the agencies on ESA, Endangered Species Act consultation, Essential Fish Habitat consultation, and also Section 106, which is for the National Historic Preservation Act.

Karen Ducey: OK, great. Thank you.

John Budnik: Thank you, Karen. Next is Tim Bradner.

Tim Bradner: Could you speak to what the overall timeline is for the issue of the Draft EIS to the final?

Dave Hobbie: Well, we're hoping to do the final in early 2020.

Tim Bradner: OK. And then is it 30 days until the Record of Decision?

Dave Hobbie: It's 60.

Tim: 60 days. OK, thank you.

John Budnik: Thank you, Tim. Next is Ashley Braun.

Ashley Braun: Hi. Something mentioned at the start of the call, NOAA has declined to participate as a cooperating agency on the EIS and does not appear to have submitted any public comments on the DEIS. NOAA Fisheries told me that they have in fact provided comments the Army Corps related to information in the EIS that could help inform that process. I was curious whether you could share those comments or at least their topic and nature?

Dave Hobbie: We did receive a letter from them, I think it was late last week. I don't know if it has been posted online yet because we did get it late last week. We will be following up with the National Marine Fisheries Service in the next couple weeks. Again, to clarify their comments, thoughts, things of that nature.

Ashley Braun: Can you share that letter?

Dave Hobbie: It should be posted online, hopefully soon. We're trying to put everything online, but again, we do have mass amounts of data, but I'm hoping it would be there no later than the end of this week, which is actually tomorrow. So, you can find it online.

Ashley Braun: OK. Would that be with the public comments or—

Dave Hobbie: --I don't know, I'll have to check and see because it actually came in after the public comment period deadline. So, one of the discussions we've been having is how do we address those? Because there was a deadline for a reason and everybody else made it. So, I

can't tell you exactly where it will be posted, but what we can do is follow up with you and let you know when and where it's posted when it goes out there.

Ashley Braun: OK, that would be great. Thank you.

John Budnik: Thank you, Ashley. Yereth?

Yereth Rosen: Hi, back to the timeline. You might've answered this in the past. But if it's the final in early 2020, and then the Record of Decision after that—I guess, best case scenario for the Pebble Limited Partnership, when could they start building the mine?

Dave Hobbie: To be clear, our permit is the first hurdle. There are over 100 authorizations they need from the State. Based on a back of the napkin map, if everything went well for them—first of all, there would have to be an assumption that we actually issue the permit and we didn't deny, that would be the first hurdle. If we issue the permit and everything went through the State and there were no issues there, probably 5 years would be the earliest they could break ground. But there's about a thousand assumptions that go into that.

John Budnik: Maybe for the pool we should just reiterate what our permits, what our authorities are.

Dave Hobbie: Yeah, so, we have two distinct authorities that we work under, which is one, Section 404 of the Clean Water Act, which allows for the placement of fill material into Waters of the US, which includes wetlands. And then Section 10 of the Rivers and Harbors Act of 1899, which regulates the work in Section 10 waters, navigable waters. Those are the two authorities we work under. Things like the actual construction and design of the dam, that's actually regulated by the State, not us. So, they'd have to go through a plethora of permits and authorizations from the State for the tailings dam and things like that. So again, a lot of things would have to go well there, but our two authorities are actually pretty small in comparison to the other authorities that the State and others have. So, I know it doesn't seem like we're the small first step, but we're the small first step in this process.

John Budnik: Yereth, did you have a follow-up?

Yereth Rosen: No, that's fine. Thank you.

John Budnik: OK, thank you. Circling back with Margie?

Margie Bauman : Yeah, thank you. I'm not doing this to be confrontational, and please don't take it that way. But, I have heard from a couple of sources that the mandate handed down from the Trump administration to the Army Corps of Engineers is "send the torpedoes full speed ahead." And that whatever challenges are brought before you, you're supposed to get through them and issue those permits, which you say are the first step. I'd like to know what reassurances we have that every question that comes before the Corps is going to be curiously considered? If you could please answer that, thank you.

Dave Hobbie: Well thank you for the question. I'll make a couple comments first—

Margie Bauman : It's not a direct accusation against you—

Dave Hobbie: Oh, no.

Margie Bauman : --but I would appreciate a response. Thank you.

Dave Hobbie: Oh, Margie. I take none of this stuff personally, don't worry. But I appreciate that comment. What I would tell you to date is that people must think I'm really important, but I have not heard from anybody in the administration about this project, nor has anybody that I work with heard anything from anybody in the administration about this. So, with regard to assurances that the process and that we're answering the questions, we're going to do everything in our power the best we can. At the end of the day, we're a public organization, we're public servants, so our job is to follow the laws and regulations as written to the best of our ability and we will do so. One of the reasons behind these calls monthly is to try to ensure that we explain our processes and that we are explaining our processes and what we're doing so people do understand. There is no doubt that this can become very confusing, and it can become very complicated. We're doing our best to try to ensure that the public understands, to the best we can, what we're doing and at the same time, explain our processes to the best we can. I'm not sure what we can do to get everyone to trust us or believe us, other than our jobs in all honestly. Regardless of what the final decision is, denial or issuance of the permit, we understand that not everybody is going to be happy. That's kind of the way it goes. But our job is to make sure we do the best that we can and ensure all the laws and regulations to implement and to exercise our authorities. I don't know what else I can say to get anybody to agree or trust us.

Margie Bauman : OK, thank you very much. I have one more follow-up question. You said if everything goes well, and you do issue the permit, it would probably be 5 years or more before they could break ground and they would have to go through a plethora of State steps. Assuming that you do issue the permit, I would anticipate that there would be some more legal challenges. How far out do you anticipate this going? Are we talking about being in court for the next 10 years or where do you think that all stands, please? Thank you.

Dave Hobbie: Well, it's very fortunate I'm not a lawyer. So, I really have no clue, Margie. I really don't. I've been involved in cases before that seemed to resolve in months and I've been in ones that dragged on for years. I have no real clue what all those processes are, what they take. We can do our part, and then let everybody else can theirs. I'm sorry I don't have a better answer, I just really have no visibility with what that might take and how long.

Margie Bauman : Thank you.

John Budnik: Thank you, Margie. That concludes the first round. Is there anybody who has joined the call late that has not had an opportunity to ask a question yet?

Liz Ruskin: Yeah, hi. This is Liz Ruskin, I'm sorry I disconnected myself once I was trying to answer before. So, hi.

John Budnik: By all means, the floor is yours.

Liz Ruskin: I'm trying to understand the elevation process. If the Corps has a disagreement with another agency that you have an MOU with, then the agreement is that you are going to elevate it to higher ups in your agency, but I believe you said that ultimately, it's the Corps' decision. So how does that square with the EPA's veto authority?

Dave Hobbie: EPA, at the end of the day, for the sake of the argument, if the higher levels made a final decision that the EPA disagreed with, they have the authority to ultimately veto that. So, technically, yes, they would ultimately have the authority to veto that if they chose to under the Clean Water Act. But—

Liz Ruskin: After the elevation process?

Dave Hobbie: After the elevation process, yes. That is correct.

Liz Ruskin: Thank you.

John Budnik: Alright, thank you. With that, let's go through the list again. We've got a big group today so we may only have two rounds, I'm not sure, depending on what's out there. So, we'll go back to you, Tim Sohn.

Tim Sohn: Thanks John. I want to change gears slightly, I saw there were a couple of recently posted RFIs that had to do with this topic, and it's one of my favorites. I'm curious if there were any options or alternatives foreclosed thus far, due to comments and feedback—and I'm thinking specifically, there was the Pedro Bay Corporation letter, which then you had an RFI on, and I noticed that it came back in the RFI that there were no alternatives, no viable alternative crossing the north side of the lake that didn't cross Pedro Bay lands. So, wondering if that option is now off the table? Similarly, there was the RFI relating to Kokhanok East landing, and agencies saying that Pebble did not or would not have access to that site. So, I'm curious, with that kind of information coming in, whether some things are off the table or if that kind of changes the EIS going forward? Thanks.

Dave Hobbie: Well, thank you for that question. We are discussing those internally currently. We have not made a final decision yet. But under 404 of the Clean Water Act, you often hear about us refer to this thing called the LEDPA, the Least Environmentally Damaging Practicable Alternative, that P for practicability basically says they have to be able to construct. So, at the end of the day, it may be that some of those alternatives are flushed out or put by the wayside because they could no longer be considered practicable because we would not have access to that land. We've not made that final decision yet, but that is something we are discussing internally currently.

Tim Sohn: OK, you anticipate that is something where you'll have a decision you'll tell us about beforehand, or is that something we'll have to wait and see what the final draft looks like?

Dave Hobbie: I'm hoping that within the next 30 days we will have made that decision. So, hopefully at the next media teleconference we can tell you.

Tim Sohn: Oh, that'd be great! Alright, I'll eagerly await the next one.

Dave Hobbie: Sorry about that. I wish we had an answer for you now, but again those are some internal discussion we're having right now.

Tim Sohn: Yeah, looks like those ones just came back in a couple of days ago. So, anyway great, I'll wait for the next one. Thanks.

John Budnik: Thank you, Tim. David Owen?

David Owen: Yes hi. I understand that the president signed the budget bill on August 6th, and that does not include the Huffman Amendment, is that correct?

Dave Hobbie: I don't know. We heard that the congressmen had put in a rider to try to prohibit spending on this project, but we have not been notified. Usually, we would not be the first to be notified if that happened. But, to date, we've been given no restrictions as far as on spending on this permit application.

David Owen: Yeah, well, I've been reading reports and there were no riders attached to that budget bill at all so that would include the amendment.

John Budnik: Alright, moving on, Dylan. Dylan Brown?

Dylan Brown: Dave did you have one more? Sorry.

John Budnik: I'm sorry, what was that?

Dylan Brown: I'm all good.

John Budnik: Oh, thank you. Mariah?

Mariah Oxford: Hi there. Question about technical meetings that you had a couple weeks ago. On the last meeting, you said that you would put proceedings online about those. Do you have a timeline for when those might be available and do you know what section they'd be posted in? I think that would help inform everybody about the type of work that you're doing to get to a Final EIS.

Dave Hobbie: We're still reviewing the meeting summaries, and those will go back out to the agencies to make sure that we all agree with what we thought we heard and said. So, I would say, hopefully within the next 2 to 3 weeks we'll be able to post those. We will have to get back to you about which section they're going to go on. I don't know enough about the balance of everything that's online to say it would be in section one, two, or three, but we'll get back to you about that.

Mariah Oxford: OK, do you mind saying what agencies or how many were involved in those meetings?

Dave Hobbie: Fish and Wildlife Service, USEPA, the Villages, the Tribes, the State agencies were involved, DEC, Fish and Game, the Park Service, and I think there were about 30 participants, people, individuals, together in those meetings.

Mariah Oxford: OK great, thank you.

John Budnik: Thank you, Mariah. Back to you, Grant.

Grant Robinson: Thanks, I really just want to make sure I'm understanding the elevation process correctly. So, can you clarify and make sure that I'm understanding this right. So, with the elevation process with the USEPA, regardless of what they say in the 404(q) paragraph (b) letter, the Army Corps can still make its' decision, even in the EPA disagrees with it? But, that is separate from the EPA's veto authority? Is that correct?

Dave Hobbie: That is correct. You did a very good job summarizing.

Grant Robinson: Awesome. So, I haven't worked with the Army Corps a whole lot in the past so I'm not as familiar with this decision making structure, so let's go down the road after the Final EIS is completed. Who specifically is making a decision, whether it meets those requirements for the permit, is it one general, is it a group of people—

Dave Hobbie: It's Colonel Philip Borders's. He's the District commander here in Alaska District.

Grant Robinson: And is his final decision?

Dave Hobbie: It's his sole decision.

Grant Robinson: Alright, that's all I have. Thank you.

John Budnik: Thank you, Grant. Richard Reed?

Richard Read: So, following up on the questions about the RFI involving Pedro Bay, are you required to have a certain number of alternatives? Because it seems like two of them out of the three have now been knocked out, or would you be comfortable if you had more alternatives in terms of the transportation and the pipeline route?

Dave Hobbie: A couple of things. There is no requirement to have, well you have to have two: the No Action Alternative, and then an alternative to permit. But there is no, you've got to have five, seven, numbers. So, remember too, there also may be different dissects of that alternative, there's a possibility to mix and match the road routes. So, there is still a possible variable to the alternative there, even if the Pedro Bay area was to fall off.

Richard Read: OK, thanks.

John Budnik: Thank you, Richard. Karen, Karen Ducey?

Karen Ducey: All good here, thank you.

John Budnik: Thank you. Tim Bradner? [silence] He may have disengaged. Ashley Braun?

Ashley Braun: I'm going to follow-up on my questions about NOAA deciding not to be a cooperating agency in the Corps' EIS process. They did say that part of the reason for that was that, if they felt that it was necessary, they could pursue their own smaller scope NEPA

document for the part of the project that applies to them, specifically with regard to Marine Mammal Protection Act authorizations. I was hoping you could talk about how that potential process might dovetail or conflict with the process that the Corps is leading?

Dave Hobbie: I really can't. It's their process to do. They made the determination to do it, so at the end of the day when we're done, we'll complete our process. If National Marine Fisheries Service then want to do theirs, that's something we'll have to reconcile. I'm not exactly sure how they plan on doing that. I'm not really engaging at that level.

Ashley Braun: OK. So, you're still consulting with them on Marine Mammal Protection Act authorizations?

Dave Hobbie: No, we're consulting with them on Endangered Species Act and the Magnusson Stevens Act for Essential Fish Habitat.

Ashley Braun: And the Magnusson Stevens Act, OK. Is it unusual for national resource agencies to opt out of being cooperating agencies on a project like this? Particularly one that touches on many of their trust resources such as this?

Dave Hobbie: I don't know, nationally, if it is or not. They say that their concerns, when then initially declined, were resource-driven. They didn't have the resources to allocate. I'm not in their organization so I'm not sure what challenges they face when it comes to resources, so it's hard for me to speculate.

Ashley Braun: I was just curious in your experience working with so many NEPA processes if it was unusual that you had agencies like that opting out.

Dave Hobbie: I'm not sure I've really seen anything usual about this project in particular.

Ashley Braun: OK, alright, thank you.

John Budnik: Thank you, Ashley. Yereth?

Yereth Rosen: I'm good for now, thanks.

John Budnik: Thank you, Yereth. Back to you, Margie.

Margie Bauman : Yeah, thank you. When Becky was asking about—I think it was Becky—about the elevation process, Dave, in your experience, not that this particular issue is anything like anything you may have dealt with in the past, but in general, when things get to the elevation process, how often does the Corps say, “thank you, we’ve already considered it.” And go with what the Corps’ original plan was, about how much of the time does the Corps go the way of the party, the agency challenging the particular issue?

Dave Hobbie: Well, what I've seen in my experience, Margie, is usually when it gets to that level there is a lot more discussion so, I don't know if I've ever seen it “it's totally our way or the highway.” What I've tended to see is more compromise along the way, so sometimes trying to come to a better middle ground or what can be perceived as a better middle ground. But I don't

think in my experience I've seen it where it's either our way or no way. So, that's what I'd probably expect.

Margie Bauman : Thank you.

John Budnik: Thank you, Margie. Back to you, Liz.

Liz Ruskin: I'm good.

John Budnik: Alright, well that concludes the second round. Coming down on the home stretch, I'm going to run through the list to see if there are any outstanding questions. Back to you, Tim Sohn?

Tim Sohn: Thanks John. One more follow-up on the practicable alternative question. What happens if, assuming there's no practicable alternatives, the vote is simply the No Action Alternative, is that correct? And second, is that something you've ever seen happen where every alternative is wiped out by some objection or another?

Dave Hobbie: If every practicable alternative was wiped out, I assume the applicant would withdraw their permit saying they can't construct this, because practicability includes cost and a bunch of other things. If they determine it wasn't practicable, I don't see why they would want to proceed with authorization. But I've not seen that in my career.

Tim Sohn: OK, thank you.

John Budnik: Thank you, Tim. Back to you, David Owen.

David Owen: Yeah hi. You mentioned it earlier that it would be about 5 years before they would be able to break ground. But it seems to me that the first permits that would be applied for would be the port, and then the roads. So, when you say 5 years to break ground, I assume that you mean 5 years before the mine is in operation? In the meantime, they'd be building the road and the port [inaudible] is that right?

Dave Hobbie: Let me be clear, I'm giving 100 percent total speculation. I cannot attest to how fast Pebble will even apply for those other permits if they chose to. I can't, so it's 100 percent speculation. There's a thousand variables that could fit in there. So, what I was giving you was my best guess as to what might happen. They might break ground on a mine in 5 years. That might be sooner, might be later, depending on how they want to phase it, what kind of construction process they use, how long it takes to get the rest of the permits. I think Margie or somebody alluded to legal challenges, so again there's a thousand variables there, so what I'll tell you is in my best speculation.

David Owen: OK. I have one other short question. I'm curious to know how Pebble is responding to the RFIs, are they responding in a timely manner?

Dave Hobbie: Thus far, they've been very responsive and very timely.

David Owen: That's good. OK, thank you.

John Budnik: Thank you, David. Dylan Brown? [silence] He may have disengaged. Mariah Oxford?

Mariah Oxford: Hi. I have a follow-up to something you mentioned about land access and how that might impact the alternatives. You said there might be different dissects of the alternatives and mix-and-match routes? How are those developed? Do you work with the Pebble developers on that? Or is it something that AECOM and the Corps comes up with on its own to try and find some other alternatives that might be practicable?

Dave Hobbie: A lot of it is from what we've heard in the public meetings. In the public meetings there were a lot of different comments about, and I'm paraphrasing what I heard in the public meetings or hearings, which is, "if you want to go the southern route, think about these different options," or, "if you want to go the northern route, think about these different options." So that's the sort of stuff we're looking at. It's what we've heard from the public when we're out at the public hearings. This isn't anything that the Corps or AECOM is trying to make up. We will look at all those different options and then try to figure out, because again, we do have to look at the Least Environmentally Damaging Practicable Alternative. So, we will look at all those different variations and try to figure out where the least environmentally damaging, and when I say that, from an aquatic ecosystem portion of the fallout. So yes, that portion the Corps would drive to try to reduce those impacts as much as possible.

Mariah Oxford: OK, thank you. I just had one other question. You mentioned earlier the National Historic Preservation Act and the work that was going on there, I think it was Section 106?

Dave Hobbie: That's correct, ma'am.

Mariah Oxford: I did see that there was an RFI related to the cultural resource survey that was submitted and it's confidential because of sensitive material included in that, so the public can't see that. Is there anything you can say generally about that report and whether or not there were any challenges or sticking points related to historic properties that would relate to any of the alternatives?

Dave Hobbie: What I can tell you about the RFI is that we were asking for clarification in certain areas, but because it does, as you said, contain specific information about historic sites, that's why it's confidential. But it's seeking better clarification, and in some instances better location specifics. The RFI we sent out is not unusual compared to many projects we do.

Mariah Oxford: So, at what point would it become clear whether any of that impacts the alternatives? Would that feed into your internal discussions about which alternatives were practicable or would not impact certain properties historic cultural resources?

Dave Hobbie: Yes, to a large extent. And we will make sure that we work closely with the State, because we do have to coordinate with the State on this. The State Historic Preservation Office is the one who makes the final call for the State, so we'll work very closely with them to make sure we're doing that.

Mariah Oxford: OK, great. Thank you.

John Budnik: Thank you, Mariah. Back to Grant Robinson.

Grant Robinson: Thanks, I want to take a step back and get kind of a big picture. Is there anything with this process, or with the Corps' responsibilities that you really wish the folks at home had a better understanding of or something that should be communicated more effectively?

Dave Hobbie: Thanks for asking that question. I've been waiting for that one for a long time. There are about three things. One, I really wish that people would take the time to better understand the authorities that the Corps works under, because a lot of the comments and concerns that we've received are based on things that are well outside of our authority. Now, not that we do not disclose them under NEPA because that is a requirement, but the authority to regulate when it actually comes to permitting or denying, people understand that our authorities are very important, but there's so much that we don't have authority over. So, when it comes to permitting—again, the tailings dam. We will regulate the placement of fill material for that dam, but the actual design of that dam, the construction, the techniques they use, are outside of our authority. But that's what we hear about the most. The safety requirements, the spill response stuff, that all falls under the State's authority, not ours. So, at times we get a lot of questions about why the Corps isn't doing more here or there, in large part it's because we don't have the authority to. So it is complicated, I get that. But that is one thing that I wish we, the Corps, could do a better job of explaining, and that people could understand better, which is where our authorities are limited. Number two, in all honestly, this process has been around for 40 plus years now, we work very hard—and I'm not saying we're perfect—but we do work really hard to ensure that we're within the confines of our processes. I know that doesn't always make everybody happy when they're not getting the answer that they want. But then number three, and here's the big one. I've heard a lot of questions about why is this going so fast. We are a cooperating agency on several other EISs that are moving much faster than this one, but for some reason everyone thinks that this one is going faster than any other one that we've ever done. I'm not saying that we're not being aggressive on this project at all, we are. But until it's done, it's not done. We're not done with the project yet. A schedule is a schedule, it doesn't mean it can or can't move, we're going to try to hold to it. But there are other projects that are going faster. So, I don't think that this is unique from that standpoint.

Grant Robinson: That's all I have, thank you.

Dave Hobbie: Thank you, sir.

John Budnik: Thank you, Grant. Richard Read?

Richard Read: On the Draft EIS, Tom Collier at Pebble was quoted as saying, "this one concludes without question that this project will not do any damage to the Bristol Bay fishery, period." Is that correct?

Dave Hobbie: I think that's the statement he made. Based on what I understand that was the statement he made.

Richard Read: But how—is that correct?

Dave Hobbie: Well we're not done yet, we're still in that part of the analysis, that was the whole intention of the draft. The final will tell that tale. We are going to do further analysis, we're trying to address comments. So, I can't say, I can't make any statement unequivocally currently about the impacts it will or will not have.

Richard Read: OK, thanks.

John Budnik: Thank you, Richard. Karen? [silence] She may have dropped off. Tim Bradner? [silence] I believe he may have disengaged as well. Ashley Braun?

Ashley Braun: I'm all set, thanks so much.

John Budnik: Thank you, Ashley. Yereth?

Yereth Rosen: My questions have been answered, thanks.

John Budnik: Thank you, Yereth. Back to you, Margie.

Margie Bauman : No further questions, thank you.

John Budnik: And then last is Liz Ruskin. [silence] OK, well I think we've run out of time here. Dave, do you have any closing remarks for the group?

Dave Hobbie: Thanks everybody, appreciate you calling in.

John Budnik: OK. With that, appreciate you folks for joining us today, and hopefully you gained a better understanding of where we're at. Please be on the lookout for next month's media teleconference, appreciate everyone's participation and interest in the project. With that, have a great day.

Multiple Speakers: Thanks a lot, thanks John, thank you.

[END OF CALL]