

State of Alaska Comments – Pebble Project Preliminary Draft EIS, Chapter 5 – Mitigation

Agency	Comment No.	Section, Paragraph, and Page #	Cooperating Agency Comment (and Purpose of Comment)	Proposed Resolution (Additions or Deletion of Text)	Response
ADEC	1	Section 5.2.1.2, Pg 5-5	Bullet one on this page notes that "Use of BMPs, such as revegetation planning, watering and use of dust suppressants to control fugitive dust." It is not clear how this matches up with the CEQ language that the EIS should indicate the likelihood that such measures will be adopted or enforced by the responsible agencies. Nowhere in this document has there been any discussion of what agency would be responsible for compliance and enforcement of the fugitive dust control plans.	Please explain.	The bullet mentioned is a standard BMP that is considered part of the proposed action to avoid/minimize impacts. Per CEQ 2011, an example of mitigation measures that are typically included as part of the proposed action are agency standardized best management practices, such as those developed to prevent storm water runoff or fugitive dust. PLP has further committed to prepare a FDCP, which is listed in Table 5-2. The FDCP would specify BMPs that would be used for controlling fugitive dust from site activities and wind erosion. Section 5.2.3 summarizes additional mitigation measures identified or recommended during the NEPA process that will be considered by the USACE and cooperating agencies as part of their permit decisions to further minimize project impacts. These measures are compiled in Appendix M and are assessed for their likelihood of implementation. One factor of the overall assessment is potential agency jurisdiction and enforcement of the measure.
ADEC	2	Table 5-2	The second listing on this table discusses a Fugitive Dust Control Plan (FDCP). It is not clear from this discussion of what agency would be responsible for compliance and enforcement of the fugitive dust control plans.	Please explain.	Table 5-2 represents the Applicant's proposed mitigation, as provided to USACE. PLP is committing to develop a FDCP and implement BMPs for fugitive dust management as part of their project to minimize impacts. It is possible that the conditions of a FDCP for the site may be enforced as part of the PSD Air Quality Control Construction Permit, but that will be determined during the air permitting process.

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ADEC	3	Table 5-2	The second listing on this table notes that "The project would use BACT for all air emissions sources." It is not clear if this statement is true for all air emissions sources. The 1977 Clean Air Act amendments pertaining to the Prevention of Significant Deterioration (PSD) require that the determination of best available control technology (BACT) be performed on a case-by-case basis considering energy, environmental, and economic impacts and other costs. It should be noted that BACT requirements are an achievable emissions limitation determined by the permitting authority on a case-by-case basis.	It is premature in the DEIS phase to be discussing BACT. The State of Alaska has authority over BACT, which is not implemented until the permitting phase when the State has the opportunity to determine what is BACT for a certain emission unit. There is also nothing to stop the Pebble Project from volunteering to put BACT controls on all of their emission units even if it's not required. If they volunteer to put BACT on it doesn't mean that ADEC could necessarily require BACT in the permit. Please clarify if they are volunteering to put BACT controls on for given pollutants even if its not required. If Pebble has made emission estimates and they know that all the pollutants will trigger a BACT analysis that should be discussed.	PLP has edited their proposed mitigation measure to reflect ADEC's recommendation. It has been clarified that a BACT analysis would be completed as part of the air permitting program and BACT would be implemented for air emissions as required by the BACT.