

**ATTORNEYS**  
Natalie A. Landreth  
Erin C. Dougherty  
Matthew N. Newman  
Wesley James Furlong  
Megan R. Condon

# Native American Rights Fund

745 W. 4th Ave., Suite 502, Anchorage, AK 99501 (907) 276-0680 FAX (907) 276-2466

**EXECUTIVE DIRECTOR**  
John E. Echohawk

**MAIN OFFICE**  
1506 Broadway  
Boulder, CO 80302-6926  
(303) 447-8760  
FAX (303) 443-7776

**WASHINGTON OFFICE**  
1712 N Street N.W.  
Washington, D.C. 20036-2976  
(202) 785-4166  
FAX (202) 822-0068

**WEBSITE ADDRESS**  
[www.narf.org](http://www.narf.org)

*Via Email*

December 21, 2018

Shane M. McCoy, Program Manager  
U.S. Army Corps of Engineers, Alaska District  
P.O. Box 6896  
JBER, AK 99506

Mr. McCoy:

This letter is sent on behalf of my client, the Nondalton Tribal Council (the “Tribe”) as a cooperating agency. Enclosed with the letter, you will find the Tribe’s comments on the following sections of the U.S. Army Corps of Engineers’ (“USACE”) Preliminary Draft Environmental Impact Statement (“EIS”) (“PDEIS”) for the proposed Pebble Mine:

- Chapter 3.2 – Land Ownership, Management, and Use
- Chapter 3.3 – Socioeconomics
- Chapter 3.4 – Environmental Justice
- Chapter 3.6 – Commercial and Recreational Fisheries
- Chapter 3.7 – Cultural Resources
- Chapter 3.8 – Historic Properties
- Chapter 3.9 – Subsistence
- Chapter 3.11 – Aesthetics
- Chapter 3.12 – Transportation
- Chapter 3.13 – Geology
- Chapter 3.14 – Soils
- Chapter 3.15 – Geohazards
- Chapter 3.16 – Surface Water Hydrology
- Chapter 3.17 – Hydrology
- Chapter 3.18 – Water and Sediment Quality
- Chapter 3.22 – Wetlands/Special Aquatic Sites
- Chapter 3.23 – Wildlife Values
- Chapter 3.24 – Fish Values
- Chapter 3.25 – Threatened and Endangered Species
- Chapter 3.26 – Vegetation
- Chapter 4.2 – Land Ownership, Management, and Use
- Chapter 4.3 – Socioeconomics
- Chapter 4.4 – Environmental Justice

- Chapter 4.6 – Commercial and Recreational Fisheries
- Chapter 4.7 – Cultural Resources
- Chapter 4.8 – Historic Properties
- Chapter 4.9 – Subsistence
- Chapter 4.11 – Aesthetics
- Chapter 4.12 – Transportation
- Chapter 4.13 – Geology
- Chapter 4.14 – Soils
- Chapter 4.15 – Geohazards
- Chapter 4.16 – Surface Water Hydrology
- Chapter 4.17 – Hydrology
- Chapter 4.18 – Water and Sediment Quality
- Chapter 4.22 – Wetlands/Special Aquatic Sites
- Chapter 4.23 – Wildlife Values
- Chapter 4.24 – Fish Values
- Chapter 4.25 – Threatened and Endangered Species
- Chapter 4.26 – Vegetation
- Chapter 5 – Mitigation
- Chapter 6 – Consultation and Coordination
- Appendix K 3.6 – Commercial and Recreational Fisheries
- Appendix K 3.9 – Subsistence
- Appendix K 3.18 – Water and Sediment Quality
- Appendix K 4.18 – Water and Sediment Quality

The Tribe's comments are provided via the attached memoranda from the Tribe's technical consultant, Ridolfi Environmental. Due to the volume of memoranda, the Tribe's comments will be emailed to the USACE in eight batches.

The Tribe has previously provided the USACE with comments on the following sections of the PDEIS:

- Chapter 1 – Purpose and Need (Nov. 21, 2018)
- Chapter 2 – Alternatives (Nov. 21, 2018)
- Chapter 3.1 – Introduction to Affected Environment (Nov. 14, 2018)
- Chapter 3.5 – Recreation (Nov. 14, 2018)
- Chapter 4.1 – Introduction of Environmental Consequences (Nov. 14, 2018)
- Chapter 4.5 – Recreation (Nov. 14, 2018)
- Chapter 7 – List of Preparers (Nov. 5, 2018)
- Appendix K 3.1 – Introduction to Affected Environment (Nov. 14, 2018)
- Appendix E – Laws, Permits, Approvals, and Consultations Required (Nov. 5, 2018)

It should be noted that the Tribe never received the following sections of the PDEIS, despite their inclusion in the USACE's schedule of deliverables provided to Cooperating Agencies on November 15, 2018:

- Figure 3.1-1
- Chapter 4.27 – Spill Risk
- Appendix F – Draft Clean Water Act 404(b)(1) Analysis
- Appendix G – ESA Biological Assessment (FWS)
- Appendix H – ESA Biological Assessment (NMFS)
- Appendix I – Essential Fish Habitat Assessment
- Appendix J – Preliminary Jurisdictional Determination
- Appendix K 3.8 – Historic Properties
- Appendix K 3.19 – Noise
- Appendix K 3.20 – Air Quality
- Appendix K 3.22 – Wetlands
- Appendix K 4.14 – Soils
- Appendix K 4.16 – Surface Water
- Appendix K 4.17 – Groundwater
- Appendix K 4.19 – Noise
- Appendix K 4.22 – Wetlands
- Appendix K 4.23 – Wildlife
- Appendix K 4.24 – Fish
- Appendix M – Mitigation, including Compensatory Mitigation Plan
- Appendix N – Project Description

The USACE's schedule of deliverables does not include the following sections of Appendix K, despite correlating sections in both Chapter 3 and Chapter 4: Appendix K Sections 3.2, 3.3, 3.4, 3.5, 3.7, 3.10, 3.11, 3.12, 3.19, 3.20, 3.21, 3.23, and 3.25; and Appendix K Sections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4., 4.9, 4.12, 4.19, 4.21, 4.26, and 4.27.

The USACE's piecemeal distribution of the PDEIS sections to cooperating agencies, the arbitrarily short timeframe for cooperating agencies to review and comment on these sections, and the USACE's failure to provide cooperating agencies with all of the sections and appendices of the PDEIS make it impossible for the Tribe, and other cooperating agencies, to properly review the PDEIS and provide substantive and meaningful comments to the USACE. The USACE's failure to provide cooperating agencies Appendix M Mitigation, in particular, is a glaring and unacceptable omission. The Tribe requests that the USACE distribute a *complete* preliminary draft of the EIS to all cooperating agencies, prior to the Draft EIS's public release, and provide the cooperating agencies *adequate* time to review and comment on the document.

The Tribe has engaged as a cooperating agency in this EIS process in good faith, intending to bring its expertise to the process and aid in the development of a comprehensive, impartial, and sound document. It is evident from the Tribe's experience as a cooperating agency that the USACE does not intend to engage in a comprehensive, impartial, or professional EIS process. The environmental consequences threatened by the proposed Pebble Mine would be devastating and last in perpetuity. These consequences will be particularly acute for the Tribe, as the closest community to the mine site. It is for these reasons that the Tribe chose to engage as a cooperating agency, and took seriously its role and responsibilities. The Tribe is deeply troubled by the USACE's demonstrated refusal to

take its role and responsibilities in this EIS process seriously.

The Tribe again encourages the USACE to meaningfully incorporate the comments and recommendations of the Tribe and other cooperating agencies as it further develops the EIS for the proposed Pebble Mine.

Respectfully,



Wesley James Furlong  
Staff Attorney  
NATIVE AMERICAN RIGHTS FUND

c.c.

Vice President George Alexi  
Nondalton Tribal Council