

**Proposed Pebble Project  
Preliminary Draft Environmental Impact Statement  
Review Comments**

**Reviewer:** NARF Technical Team  
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**Chapter:** Chapter 3: Affected Environment  
**Section:** Section 3.7 Cultural Resources  
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**Comments**

**General.** As written, this section does not adequately describe the cultural resources in the project area in any way that would be accessible to either the public or decision-makers. Instead, it is focused on legal definitions, what is required to be done to assess cultural resources, and the degree to which that has been done. The reader is referred to other documents for existing summaries of information. Cultural resource locations are frequently referred to by number, which is an especially opaque way of ensuring that only those few individuals having complete familiarity with the underlying documents will understand what is being discussed. The reader comes away with little actual information, but rather a general sense that there are a lot of culturally significant features within the project area. This entire section needs to be rewritten to describe and visually portray the types and quantities of cultural resources that are present in various areas in a clearly understandable manner. A map showing project features with symbols representing different types of cultural uses would be one way that could be considered.

"Pending," "incomplete," "additional," and "gap" appear more than 15 times in this section in relation to the need for more research. As now stands, this section is woefully incomplete. In the second paragraph of Section 3.7, please cite the regulations directly [40 CFR 1508.27(b)(8)] that state that the federal agency should consider "*The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*" Citing directly will avoid confusion and ensure everyone is on the same page. The last sentence of this same paragraph states, "*Importantly, though, cultural resources do not need to be eligible or listed on the NRHP for consideration under NEPA.*" This is true; however, it raises the issue of why historic properties receive their own section (Section 3.8). Giving historic properties their own section misleads the reader into thinking historic

properties are more important than other cultural resources under NEPA. USACE needs to integrate Section 3.8 into this section to avoid confusion.

Please make the first sentence of the third paragraph in Section 3.7 active. It is not clear who is “generally” defining the cultural resources under the National Environmental Policy Act (NEPA). Is it the U.S. Army Corps of Engineers (USACE), AECOM, Stephen R. Braund & Associates (SRB&A), or someone else?

USACE needs to summarize the federal laws, regulations, and executive orders pertaining to cultural resources under which the USACE is coordinating and conducting studies to comply with NEPA (43 CFR 1502.25). USACE did this for the 2018 Alaska Stand Alone Pipeline (ASAP) Project Final Supplemental Environmental Impact Statement (SEIS). USACE needs to comply with more than Appendix C and Section 106. For example, the USACE will need to comply with the American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996) and Religious Freedom Restoration Act (42 U.S.C. 21b).

As part of the EIS analysis, USACE will need to develop a systematic and replicable analysis for locations with Indigenous place names. An example can be found in the USACE’s 2018 ASAP Final SEIS that involved compiling, cataloging, classifying, and mapping the locations with Indigenous place names. Also, it should be recognized that this USACE EIS Analysis Area for locations with Indigenous Place Names extended five miles outward from project infrastructure.

**Section 3.7.1 Data Gap Summary.** The fourth bullet item requires clarification. First, when referencing interview-identified cultural resources, do not refer to them as sites. They are not all sites. Plus, this demonstrates an archaeological bias. Refer to them as interview-identified cultural resources, because these resources include, but are not limited to trails, sacred places, traditional use areas, sites, and battlefields. Furthermore, in this fourth bullet item, USACE states, “. . . only limited field work has been completed to determine if there are physical manifestations of these interview-identified . . .” cultural resources. It is important to remember that many of these interview-identified cultural resources may not have “physical manifestations” (e.g., spiritual places, battlefields, winter trails). Lack of physical evidence makes them no less significant.

In the seventh bullet item of Section 3.7.1, USACE states, “*It is not uncommon for linear features to be investigated for cultural resources during final project design.*” This mindset is unfortunate and ill-advised. USACE should review the court decision from *Indigenous Environmental Network v. U.S. Department of State* that vacated the final supplemental EIS and record of decision and halted the U.S. State Department and the project proponent from “*engaging in any activity in*

*furtherance of the construction or operation of [the project] and associated facilities until the Department has completed a supplement to the 2014 SEIS that complies with the requirements of NEPA.*" \_\_\_ F. Supp. 3d \_\_\_, No. CV-17-29-GF-BMM, 2018 WL 5840768, at \*20 (D. Mont. Nov. 8, 2018). This court decision states:

*The 2014 SEIS fails to provide a "full and fair discussion of the potential effects of the project to cultural resources" in the absence of further information on the 1,038 unsurveyed acres. "NEPA ensures that [agencies] will not act on incomplete information, only to regret its decision after it is too late to correct." The Department appears to have jumped the gun when it issued the ROD in 2017 and acted on incomplete information regarding potential cultural resources along the 1,038 acres of unsurveyed route.*

*Id.* at \*10 (alteration in original) (quoting *Native Ecosystems Council v. U.S. Forest Service, an Agency of U.S. Dep't of Agric.*, 418 F.3d 953, 965 (9th Cir. 2005) and *Marsh v. Oregon Nat. Res. Council*, 490 U.S. 360, 371 (1989)).

The last sentence of Section 3.7.1 suggests USACE has little intention of addressing data gaps prior to the issuance of the Final EIS when it states, "*The procedures detailing further work beyond the issuance of the Final EIS (e.g., the process for additional identification research and surveys, evaluation, and mitigation measures) will be established through the development of a PA.*" USACE needs to ensure that the transportation corridor, pipeline, and Diamond Point components are surveyed prior to preparation of the Final EIS to "*ensure that [USACE] will not act on incomplete information, only to regret its decision after it is too late to correct.*" *Native Ecosystems Council*, 418 F.3d at \*10 (quoting *Marsh*, 490 U.S. at 371).

In the last (eighth) bullet item in Section 3.7.1, USACE needs to clarify that historic properties are more than archaeological sites. In addition, USACE needs to include archaeological districts in their research, not just sites.

There are clearly several data gaps remaining. The USACE appears to be relying on previous evaluations in this EIS, even if those evaluations are incomplete and do not address all the current project elements. It is not even clear that these data gaps will be filled prior to selecting an alternative and deciding on whether to permit the proposed project. This approach is unacceptable, since cultural resources are clearly one of the most important aspects of the consultation process. This entire section appears to be completely out of date and reliant on work conducted to support a former version of this project as it was previously designed. This EIS should be put on hold until environmental and cultural studies catch up with the current

project design and proposed alternatives. It is difficult to evaluate whether the alternatives have been appropriately selected without this information, since they differ mainly with respect to elements of the project that have not yet been studied.

Consultation with affected tribes and Alaska Native communities should be conducted prior to developing the final alternatives. A description of cultural resources is not something that should be provided merely for "context" or to develop mitigation plans after an alternative and project footprint have already been selected. Many cultural resources are place-based, and once lost, these resources are forever lost. These losses cannot be mitigated and must be avoided. Many of the transportation elements of the project seem to have few real alternatives; therefore, significant and foreseeable conflicts will probably occur if important cultural resources fall along a critical project pathway. These issues should be fully vetted and addressed prior to development of the alternatives to ensure that there are at least some alternatives that avoid significant damage to and loss of cultural resources. Delaying or deferring the necessary work to address these issues until project design or field implementation through a programmatic agreement (PA) is unacceptable and disrespectful of the serious cultural issues associated with this project.

**Section 3.7.2 Area of Analysis.** Please explain the rationale and cite the data behind USACE's determination that the EIS Analysis Area should be the *"claim block of the project at the mine site and the viewshed of the project footprint."* As now stands, this EIS Analysis Area is unanalyzable. In this same section, USACE states, *"The permit area as defined by Appendix C (of 33 CFR 325) has not yet been formally delineated. It is expected that ongoing consultation with agencies and other consulting parties through the NHPA Section 106 process . . ."* The Section 106 process requires an Area of Potential Effects, not a Permit Area.

**Section 3.7.3 Cultural Context.** This discussion emphasizes historic and archaeological context, while inadequately addressing cultural resources. Cultural resources are very much a living, present-day concern to Alaska Natives. As such, the studies described in Section 3.7.3.1, from which the entire cultural resources discussion draws, are wholly inadequate. Tribal history does extend back millennia into "pre-history"; however, modern-day Alaska Natives are fighting a constant battle to maintain their cultural lifeways and traditions. Cultural lifeways and traditional practices exist in an unbroken chain from past generations to present generations to future generations and should be considered in that context.

**Section 3.7.3.1 Previous Cultural Resource Research.** In this subsection USACE states that SRB&A conducted surveys in the Expanded Cook Inlet Base Line Study Area (ECIBSA) in 2005

and 2007 – 2013. This is not correct. SRB&A did not conduct surveys in the ECIBSA from 2008 – 2011. The ECIBSA acronym did not exist prior to 2012. Furthermore, in this subsection, USACE states, *"In July 2018, HDR completed an archaeological survey of the Amakdedori port site on behalf of PLP . . . and an NRHP-evaluation report is pending."* It is unfortunate that USACE, Pebble Limited Partnership, and HDR saw no need to consult with the tribes on these identification efforts and National Historic Preservation Act evaluation as part of the Section 106 process. This is especially concerning because tribes have reported Amakdedori as a traditional cultural place and the presence of graves in the area as part of the NEPA scoping process.

**Section 3.7.4 Action Alternative 1, 3.7.4.1 Mine Site, Place Names.** USACE states ". . . place names are noted near the deposit on the South Fork Koktuli River, Upper Talarik Creek, and points north, west, and south of the claim block area, particularly along the Newhalen River to the east and near Nikabuna Lakes to the north." It is important to note that *Qukdeli* (South Fork Koktuli), *Tuni Vetnu* (Upper Talarik Creek), *Nughil Vetnu* (Newhalen River), and *Unqeghdut Nikugh Vena* and *Unqeghnit Nikugh Vena* (Nikabuna Lakes) are locations with Indigenous place names in addition to the locations around or adjacent to them with Indigenous place names.

The EIS needs to provide a better explanation of why place names are important, what they demonstrate, and the meanings and significance these places hold to local communities. It is odd to read about compilations of specific place names and cross-referencing with the locations of project components, since a simple glance at a map clearly indicates that there are almost no place names within the vicinity of the proposed project that are *not* Alaska Native in origin.

In Section 3.7.4.1, the use of the subheading "**Cultural Resources**" requires reconsideration on the part of USACE. Alaska Heritage Resource Survey (AHRs) locations, historic properties, and locations with Indigenous place names are types of cultural resources. USACE needs to reorganize this section. As it's written now, cultural resources are weirdly a type of cultural resource.

In the second line of this subsection, *"scared"* should be *"sacred."* In general, this section places far too much emphasis on identifying specific places, as if avoiding specific individual places will be sufficient in mitigating impacts to cultural resources. Most of the cultural resources described in this section exist on a landscape scale and require an intact landscape to function. While there may very well be specific historic or archaeological resources that are important, or specific locations that have special spiritual or ecological importance, most cultural resources depend on the whole landscape. For example, salmon require entire stream systems and watersheds that support these fish at every stage of their lives. Salmon need intact estuaries and clean

groundwater and have important ecological interactions with other species, such as bears and marine mammals.

When a community member describes campsites, hunting trails, gathering areas, and other places, these are not necessarily specific locations that can be mapped and avoided. These places require an intact ecosystem without barriers so that hunting, gathering, and fishing activities in a given year can be oriented toward those place at which resources are most abundant. Place names, myths, and spiritual traditions also involve landscape-scale features, including mountains or rivers. Therefore, less emphasis needs to be placed on identifying individual places, and more on learning about how cultural resources are related to the landscape. This understanding is essential to fully identify, assess, describe, and evaluate the potential impacts of the proposed alternatives on cultural resources. The USACE needs to take a hard look at how cultural resources will be affected by the proposed project.

**Known AHRS Resources.** Please correct the subheading "**AHRS Resources**" in Section 3.7 for all action alternatives. AHRS Resources does not make sense. One option is to use AHRS locations instead. Do not use AHRS sites because the AHRS includes trails, districts, landscapes, and more.

The second paragraph under this subheading provides one of several examples in which locations were removed from consideration because they are "modern." It is understood that this is meant in an archaeological context; however, it is a telling reflection of a mindset that does not recognize or acknowledge that cultural resources are part of the current landscape, practices, and traditions and are fully present on the landscape.

**Section 3.7.4.2 Transportation Corridor. Place Names.** USACE states, "*The transportation corridor has not been subject to specific place names research or more detailed ethnographic or traditional ecological knowledge investigations.*" This statement is not true. Yoko Kugo, a Ph.D. candidate at the University of Alaska-Fairbanks has been conducting Indigenous place name research in the Iliamna Lake region for several years; however, none of her research is cited by USACE. Please examine her research to help address this obvious data gap.

**Section 3.7.4.3 Amakdedori Port.** There is no mention of the shipwreck of the Russian vessel *Three Saints (TriSviatitelia)*, which ran aground during a storm on September 10, 1796 in Kamishak Bay (Black 2004:231; Klein 1999:11). Of the 19 people on board, 15 survived, and four wintered over with the wreck to refloat it in the spring only to fail (Klein 1999:11). They burned the ship to salvage the iron (Klein 1999:11). Archaeological remains of this shipwreck and the associated camps may be found anywhere in Kamishak Bay including the port area.

Even based on the cursory analysis provided here, it is clear that the Amakdedori Port site is problematic from a variety of cultural resource perspectives. It is an area of archeological significance with a historical village, homes, graves, and trails, and it is a place of current and active cultural uses, which are not even mentioned here. The area proposed for this port is especially well-suited for shoreline subsistence use. Considering the cultural resources associated with this site and the ecological damage that would occur by building the port in this location, the USACE needs to develop alternatives and evaluate these alternatives in the EIS.