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## **JUDGE DISMISSES PEBBLE LIMITED PARTNERSHIP'S LAWSUIT CHALLENGING EPA'S CLEAN WATER ACT AUTHORITY**

Anchorage, AK: Ruling from the bench, Alaska U.S. District Court Judge Russel H. Holland dismissed Pebble Limited Partnership's (Pebble) and Alaska Peninsula Corporation's lawsuit<sup>1</sup> against the U.S. Environmental Protection Agency (EPA). The lawsuit sought to stop EPA's public process to determine whether mining at the Pebble Project will pose dangerous and unacceptable impacts to the environment, including the world class salmon runs of Bristol Bay.

EPA's process, initiated under Section 404(c) of the Clean Water Act, allows a determination that activities may pose such unacceptable environmental impacts that they should be precluded, limited, or restricted to protect water resources and the environment. That is the process underway regarding Pebble.

Nunamta Aulukestai, a consortium of ten village corporations and ten Tribes, intervened in the lawsuit on the side of EPA because in 2010, local Tribes asked EPA to exercise its authority under Section 404(c) to protect the unique and valuable subsistence resources of Bristol Bay, including salmon. The United Tribes of Bristol Bay, the Bristol Bay Native Corporation, the National Resources Defense Council, and Trout Unlimited also intervened on the side of EPA.

Pebble filed the lawsuit in May after EPA issued its *Final Report: An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*. The report came after three years of study and two scientific peer reviews. The Assessment concludes that the development of a mine at the Pebble deposit would result in the destruction or modification of streams, wetlands, and ponds. In

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<sup>1</sup> The State of Alaska intervened in this case as a plaintiff-intervenor on the side of Pebble.

addition, because the Alaska Native cultures in the Bristol Bay watershed have significant ties to specific land and water resources that have evolved over thousands of years, it is not possible to replace the value of any subsistence use areas lost to mine operations.

The intent of Pebble's lawsuit was to stop EPA from moving forward with a Proposed Determination under Section 404(c) to place restrictions on Pebble's proposed mining in the region. Judge Holland ruled that Pebble was premature in filing the action because EPA has not made any final decisions and therefore the court does not have jurisdiction to hear the case.

"We are thrilled that the court halted Pebble's attempt to stop EPA's decision process before it has even been made," said Bobby Andrew, spokesman for Nunamta Aulukestai. "This is more evidence of Pebble overreaching and walking over the rights of those of us who have thrived here for millennia so they can fill their own pockets."

"It is fitting that Pebble's rush to judgment over EPA's initiation of the 404(c) process has been thwarted," Trustees for Alaska Executive Director Vicki Clark stated. "While Pebble claims that it is too soon to draw conclusions about Pebble's impacts, Pebble's activities have been going on for decades and residents in the region welcome EPA's review of whether Pebble's proposed mine will destroy their way of life." Trustees for Alaska represents Nunamta Aulukestai in the case.

Pebble has filed another lawsuit in federal District Court under the Federal Advisory Committee Act, which is also before Judge Holland. A preliminary injunction motion is in the briefing process in that case.

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