



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 16 2013

The Honorable David Vitter  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

OFFICE OF WATER

Dear Senator Vitter:

Thank you for your June 11, 2013, letter to the U.S. Environmental Protection Agency regarding the agency's work to develop the Bristol Bay Watershed Assessment. Your letter raises important questions about the process to prepare a final Assessment. However, in light of your continued interest, I am pleased to elaborate upon our prior responses, to clarify the points raised in your letter.

The EPA is conducting the Bristol Bay Watershed Assessment in response to concerns raised by federally recognized tribal governments and other organizations in Alaska and elsewhere regarding potential environmental, water quality, fisheries and associated economic and subsistence impacts from proposed large-scale mining development in the Bristol Bay watershed. Many stakeholders filed petitions with the EPA in mid-2010 requesting that the agency take action pursuant to Section 404(c) of the Clean Water Act to restrict discharges associated with large-scale mining activities in the watershed. Others asked that the agency not take immediate action pursuant to Section 404(c) and, instead, wait for the National Environmental Policy Act and Clean Water Act Section 404 permitting processes to proceed.

In response to these competing requests, the agency decided in February 2011 that the most effective path forward was to conduct a transparent, collaborative, and science-based watershed assessment in order to characterize the biological and mineral resources of the Bristol Bay watershed, increase understanding of the impacts of large-scale mining on the region's fish resources, and inform future government decisions related to protecting and maintaining the physical, chemical, and biological integrity of the watershed. The assessment development process will enhance the high-quality scientific information available to the EPA, other federal agencies, the State of Alaska, the mining industry, and other stakeholders.

Your letter expresses concerns regarding the agency's use of a series of mine scenarios in order to assess the likely impact of large-scale mining-related development on the Bristol Bay watershed. As described in the Assessment, these scenarios are based on published preliminary mine details put forth in documents authored by Northern Dynasty Minerals, a co-owner of the Pebble Limited Partnership. Northern Dynasty has made many of its mine planning documents publicly available in the hundreds of pages of preliminary mine planning information it has submitted to the Securities and Exchange Commission and to the State of Alaska. To supplement these documents, the agency relied upon information from scientific and industry literature for mines around the world. In this way, the mine scenarios relied upon in the EPA's Assessment reflect the kinds of activities and processes typically associated with the kind of large-scale porphyry copper mining development that can be reasonably anticipated at the Pebble Mine location.

The EPA has now been engaged in the watershed assessment development process for more than two years. The agency has benefitted from scientific and technical contributions from federal and state agencies, from hundreds of thousands of public comments, and from a 2012 independent peer review process. We are further strengthening the scientific basis for the agency's work by a follow-on review process in which we have asked the same scientific experts to evaluate whether our revised draft has responded to their comments on the earlier (May 2012) draft of the assessment. Finally, we are reinforcing the transparency of our watershed assessment process by receiving and reviewing additional public comments on the revised draft assessment. When these public comment and scientific review processes are complete later this summer, the agency will turn its full attention to finalizing the assessment by the end of 2013.

The EPA continues to believe that all stakeholders in Alaska are best served by completing the Bristol Bay Watershed Assessment in a timely manner. We believe the final Assessment, when completed, will be extremely useful for informing future decision-making, and for informing any NEPA or CWA processes that may follow. The information included in the Assessment will help the EPA and other agencies to ensure a timely and science-based permit review process. Prematurely stepping away from our assessment development efforts at this time, we believe, would only increase uncertainty among Bristol Bay stakeholders, including both those who rely on the Bristol Bay fishery for their livelihoods and those who are pursuing large-scale mining-related development in the watershed.

Finally, your letter asks if the agency's ongoing assessment precludes Pebble Mine proponents from submitting a permit application to the U.S. Army Corps of Engineers. I want to emphasize that the EPA's Assessment process – which is a scientific and technical evaluation – does not prevent the Pebble Limited Partnership from releasing a mine plan or submitting a permit application to the Corps. In fact, we believe that release of a final mine plan would help reduce the uncertainty that has developed in Alaska regarding the Pebble Limited Partnership's plans for large-scale mining in the watershed. In the meantime, we believe that the final Assessment will provide useful information to the Corps, the state, mining companies, and others during the review of future permit applications for large-scale mining-related development in the Bristol Bay watershed.

Thank you again for your letter, and I look forward to continuing to keep you informed as we work to finalize the Bristol Bay Watershed Assessment. If you have any additional questions, please do not hesitate to contact me, or your staff may contact Mr. Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Stoner', written in a cursive style.

Nancy K. Stoner  
Acting Assistant Administrator