



Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington DC 20515

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November 19, 2020

Lt. Gen. Scott A. Spellmon  
Chief of Engineers and  
Commanding General  
U.S. Army Corps of Engineers  
441 G Street, NW  
Washington, DC 20314

Dear General Spellmon:

We are writing to you with deep concerns about the proposed Pebble Mine in Bristol Bay, Alaska, home to the world's largest natural sockeye salmon fishery.<sup>1</sup> As you know, Pebble Limited Partnership (Pebble), a subsidiary of the Canadian mining company Northern Dynasty Minerals Ltd. (Northern Dynasty), has applied to the U.S. Army Corps of Engineers (Army Corps) for a mining permit to construct an open pit gold and copper mine near the headwaters of Bristol Bay, Alaska. Recent secretly recorded revelations by both Tom Collier, who was at the time the Chief Executive Officer (CEO) of Pebble and Ronald Thiessen, the current President, CEO and Director of Northern Dynasty,<sup>2</sup> raise serious questions regarding the veracity and completeness of information Pebble submitted to the Army Corps for its permit application in December 2017.<sup>3</sup>

In that application, as well as in testimony by Mr. Collier to our Committee in October 2019, Pebble made clear it was seeking a scaled back mine that would produce 160,000 metric tons of material per day that would operate for just 20 years with no plans for expansion.<sup>4</sup> "Pebble has no

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<sup>1</sup> "Gene Conservation Laboratory: Bristol Bay Sockeye Salmon Mixed Stock Analysis, Genetic Baseline," Alaska Department of Fish and Game, (Undated), accessed here:

[http://www.adfg.alaska.gov/index.cfm?adfg=fishinggeneconservationlab.bbaysockeye\\_baseline](http://www.adfg.alaska.gov/index.cfm?adfg=fishinggeneconservationlab.bbaysockeye_baseline)

<sup>2</sup> Northern Dynasty Minerals Ltd. is a publicly traded company on the New York Stock Exchange. See: "Northern Dynasty Minerals Stock Forecast, Price & News," *MarketBeat*, accessed here:

<https://www.marketbeat.com/stocks/NYSEAMERICAN/NAK/>

<sup>3</sup> "The Pebble Project: Department of the Army Application for Permit (POA-2017-271), Attachment D: Project Description," December 2017, accessed here: <https://www.pebbleprojecteis.com/documents/background>

<sup>4</sup> See: Testimony of Tom Collier before the Subcommittee on Water Resources and Environment, Committee on Transportation and Infrastructure, U.S. House of Representatives at hearing entitled "The Pebble Mine Project: Process and Potential Impacts," October 23, 2019, pp. 19 - 20, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hrg41942/pdf/CHRG-116hrg41942.pdf> and "The Pebble Project: Department of the Army Application for Permit (POA-2017-271), Attachment D: Project Description," December 2017, accessed here: <https://www.pebbleprojecteis.com/documents/background>

current plans, in this application or in any other way, for expansion,” Mr. Collier said in his written testimony to the Committee referring to Pebble’s permit application to the Army Corps.<sup>5</sup>

However, in August and September 2020, investigators at the Environmental Investigation Agency (EIA), a non-governmental organization, secretly recorded multiple conversations with Mr. Collier and Mr. Thiessen that completely contradict the submission of information by Pebble to the Army Corps and Mr. Collier’s testimony to our Committee. Among the most egregious contradictions, the two men made clear that large scale expansion of the mine was inevitable—and was in fact Pebble’s ultimate plan all along despite what they had publicly conveyed to our Committee and to your agency—and that they also envisioned the operating life of the Pebble Mine to extend for nearly 200 years, ten times longer than they had acknowledged in their permit application to the Army Corps. Those recordings, known as “The Pebble Tapes,” were obtained by investigators for EIA who posed as potential financial investors in the Pebble Mine and were publicly released by EIA on September 21, 2020.<sup>6</sup>

The Army Corps, in fact, issued a brief statement after the public release of those tapes that said, in part: “Upon review of the transcripts, we have identified inaccuracies and falsehoods relating to the permit process and the relationship between our regulatory leadership and the applicant’s executives.”<sup>7</sup> Those video tapes show Mr. Collier and Mr. Thiessen made several candid revelations regarding the planned expansion, increased capacity, size and duration of the proposed Pebble Mine that clearly contradict statements made in public, to our Committee and to the Army Corps.<sup>8</sup>

There are U.S. Federal laws that demand testimony to Congress and submissions to your agency be both truthful and complete.<sup>9</sup> Concealing material facts and making intentionally false statements are prohibited.<sup>10</sup> One of these laws, 18 U.S.C. § 1001, was specifically listed in the permit application that Pebble signed and submitted to the Army Corps on December 22, 2017.<sup>11</sup> Under this statute, false statements are punishable by fines of up to \$250,000, imprisonment of up to five years, or both.<sup>12</sup>

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<sup>5</sup> Testimony of Tom Collier before the Subcommittee on Water Resources and Environment, Committee on Transportation and Infrastructure, U.S. House of Representatives at hearing entitled “The Pebble Mine Project: Process and Potential Impacts,” October 23, 2019, p. 20, accessed here: <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41942/pdf/CHRG-116hhrg41942.pdf>

<sup>6</sup> “The Pebble Tapes” are available here: <https://eia-global.org/reports/20200921-the-pebble-tapes>

<sup>7</sup> “Corps issues statement on Environmental Investigation Agency’s recorded conversations,” Press Release, U.S. Army Corps of Engineers - Alaska District, September 23, 2020, accessed here: <https://www.poa.usace.army.mil/Media/News-Releases/Article/2358737/corps-issues-statement-on-environmental-investigation-agencys-recorded-conversa/>

<sup>8</sup> Ibid.

<sup>9</sup> See, for example, 18 U.S. Code § 1001, “Statements or entries generally,” accessed here:

<https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap47-sec1001.pdf>

<sup>10</sup> Ibid.

<sup>11</sup> “Pebble Project, Department of the Army, Application for Permit,” POA-2017-271, The Pebble Partnership, December 2017, accessed here:

[https://www.poa.usace.army.mil/Portals/34/docs/regulatory/plp/12\\_22\\_2017\\_POA\\_2017-271\\_DA\\_Application\\_Pebble\\_Limited\\_Partnership.pdf?ver=2018-01-05-115756-287](https://www.poa.usace.army.mil/Portals/34/docs/regulatory/plp/12_22_2017_POA_2017-271_DA_Application_Pebble_Limited_Partnership.pdf?ver=2018-01-05-115756-287)

<sup>12</sup> 18 U.S. Code § 1001, “Statements or entries generally,” accessed here:

<https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap47-sec1001.pdf>

From the private discussions revealed by the “Pebble Tapes,” it seems as though Pebble was dealing with two sets of facts, one to lure potential investors to the Pebble project and one to alleviate fears of Alaskan Natives, the U.S. Congress and Federal agencies of potential adverse environmental impacts from the proposed Pebble Mine. Pebble appears to have shuffled its deck of facts depending on the players at the table.

It is impossible to conclude that both sets of statements Pebble’s executives made in privately recorded videotapes and in publicly submitted information were accurate, since they were so completely and clearly contradictory. The public statements Pebble Limited Partnership, its parent company Northern Dynasty and its executives made appear disingenuous, misleading and potentially illegal.

Our Committee has clear oversight of issues related to the proposed Pebble Mine project, including jurisdiction over all programs within the civil works and regulatory programs of the Army Corps and the water quality and Clean Water Act-related infrastructure programs of the U.S. Environmental Protection Agency.<sup>13</sup> In order for our Committee to gain a fuller and more accurate account of Pebble’s true intent regarding the scale, scope and duration of the proposed Pebble Mine we are requesting copies of all records related to the intended, anticipated or potential length, capacity, size and scope of the Pebble Mine.

The requested records should include, but not be limited to, presentations, memorandums, plans, studies, analyses, reports and forecasts. They should also include all e-mails, texts and other written communications to, from or between any Pebble employee, including employees from Northern Dynasty Minerals Ltd., the Pebble Mines Corporation or any other related Pebble entity, consultants or contractors with the Army Corps. These items may be limited to:

- 1) All records referencing, referring to, discussing or citing the intended, anticipated or potential operational length or duration of the Pebble Mine;
- 2) All records referencing, referring to, discussing or citing the intended, anticipated or potential operational capacity of the Pebble Mine;
- 3) All records referencing, referring to, discussing or citing the intended, anticipated or potential size or footprint of the Pebble Mine;
- 4) All records referencing, referring to, discussing or citing the intended, anticipated or potential development of any other mines in the Pebble deposit, other than the Pebble Mine as described in Pebble’s December 2017 permit application submitted to the Army Corps.

The scope of the searches requested above may be limited to December 1, 2017, to present.

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<sup>13</sup> Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, accessed here: <https://transportation.house.gov/subcommittees/water-resources-and-environment-116th-congress>

We appreciate your attention to this matter. Please see the attachment for instructions regarding the preparation of these records. Please have your staff discuss the logistics of providing these records electronically with Committee staff in advance of any planned delivery.

We request that delivery of these records begin on December 10, 2020. We will consider a rolling production of these records if you are unable to fully complete this response by this date. However, please have your staff discuss your anticipated timeline for completion of this request with Committee staff prior to the December 10<sup>th</sup> deadline if you believe you will need additional time to complete this request.

To make arrangements for electronic delivery of these records, or if you have any questions regarding this request, please have your staff contact Matt Weisman, Majority Staff Counsel at 202-225-4472.

Sincerely,



PETER A. DeFAZIO  
Chair



GRACE F. NAPOLITANO  
Chair  
Subcommittee on Water Resources  
and Environment

Enclosure: Attachment A – Responding to House Committee on Transportation and Infrastructure Records requests in the 116th Congress

cc: The Honorable Sam Graves, Ranking Member  
The Honorable Bruce Westerman, Ranking Member,  
Subcommittee on Water Resources and Environment