

# The LOGBOOK of CSP<sup>2</sup>

The CENTER for SCIENCE in PUBLIC PARTICIPATION

*"Technical Support for Grassroots Public Interest Groups"*

CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup> / SPRING 2021 / CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>

## Pebble Mine – What Happened, and What Does It Mean?



*Summer in the Pebble mine pit area (photo by Marcus Giest)*

### What Happened, and What Does It Mean?

For the past several months the Pebble Mine has been in the news.

The Final Environmental Impact Statement (EIS) on the Pebble Mine was released by the Army Corps of Engineers in July 2020. Federal regulations require that an agency must wait at least 30 days after the official release of an EIS before issuing a Record of Decision on whether to issue a permit for the project. The Corps issued its decision in November 2020, but a lot of unexpected thing happened in the interim.

In September 2020, the Washington Post depicted a series of tapes released “*In secret tapes, mine executives detail their sway over leaders from Juneau to the White House*”. This article describes the work by in-

vestigative journalists who deceived Pebble executives into believing they were telling potential Chinese investors about Pebble’s long-range plans for the mine, and about the political influence the company has with the federal and state government officials. These interviews put Pebble at odds with both Alaska senators, whom they portrayed as trying to avoid taking a position on the mine to maintain the appearance of political neutrality on the mine, while privately supporting the development. This episode led to the termination of Tom Collier, Pebble chief executive, by Ron Thiessen, the chairman of Northern Dynasty Minerals, the Canadian owners of Pebble. Both men were recorded sending essentially the same message, but Thiessen put the blame on Collier.



***King Salmon (photo from Frank Woods)***

In the interviews both made it clear that they expected to see the development of a large, long-term mine, not the mine as analyzed in the EIS. This is something CSP2 criticized in its comments on the EIS – that the mine being analyzed in the EIS was not the mine that would obviously be developed, and that the Army Corps of Engineers should be analyzing the larger mine for its potential impacts, something the EIS did not do.

Following the release of the Final EIS Nick Ayers, Vice President Pence’s former chief of staff, took a public stand against the mine. This was followed quickly by a tweet (of course) from Donald Trump Jr., who has spent time in Bristol Bay fishing recreationally, supporting Ayres’ position. Then, Fox News host Tucker Carlson ran several episodes on his show criticizing the proposed Pebble Mine development. Suddenly opposing Pebble was no longer a partisan issue.

In a still-surprising Record of Decision in November, the Army Corps of Engineers found that the

Pebble Project was not in the public interest, and the permit was denied. From the Record of Decision, November 20, 2020:

*“The plan has been found noncompliant with nine specific requirements of rule to include: (1) lack of detail to determine compensatory mitigation sufficiency, (2) lack of information for preservation waiver, (3) insufficient amount of compensatory mitigation, (4) inadequate site protection, (5) omission of a maintenance plan, (6) omission of performance standards, (7) omission of long term management plan, (8) inadequate monitoring, and (9) omission of financial assurances.*

*USACE determined that modification of the project through the inclusion of special conditions would not be sufficient to achieve compliance with the 404(b)(1) Guidelines.”*

This was a welcome, albeit unanticipated, decision to the residents of Bristol Bay. This is not, of course, the end of the story. At the time of this writing, both Pebble and the State of Alaska have appealed the Corps decision. If the decision is upheld by the Corps, which is likely under the Biden administration, then legal action will probably follow. All of the factors listed as reasons for denying the permit could be remedied. Pebble is free to reapply for a permit at any time, and could just sit back and wait for another friendly federal administration. Mining companies can be very patient when they want to.

Personally, I take two themes away from the Army Corps’ decision. First, the role of politics over science in the final decision is readily apparent. It was concluded in the EIS that there would be no significant impact to fish from the mine development. That would suggest that the mine should be approved, but that is not what happened. This is certainly what Pebble and the State will argue in their appeal, and before the courts. The science in the EIS could have justified a finding of potential significant impacts to water quality and to the fisheries resources, but it didn’t, because that was the political will driving the EIS at the time it was written. The EIS was produced in approximately two years, a lightening pace for a large mine EIS. The EIS ignored the potential impacts from a full-resource development, which is inevitable, and from potential impacts to the fisheries resource, which the best-qualified experts predict. But it didn’t, because the Army Corps of Engineers anticipated that the political decision would be to approve the mine permit, and it structured its technical analysis accordingly.

**CENTER for SCIENCE in PUBLIC PARTICIPATION**

224 North Church Avenue  
Bozeman, Montana 59715-3706

Phone: 406-585-9854 Fax: 406-585-9854  
e-mail: csp2@csp2.org Web: www.csp2.org

*The Center for Science in Public Participation  
is a 501(c)(3) non-profit corporation  
Volume 25, Number 1, Spring 2021*

**CSP<sup>2</sup> Board of Directors**

|                             |                               |
|-----------------------------|-------------------------------|
| Alan Young, Ottawa, ON      | David Secord, Salt Spring, BC |
| Ann Maest, Boulder, CO      | Glenn Miller, Reno, NV        |
| Anna Cederstav, Oakland, CA | Jill Weitz, Juneau, AK        |
| Cameron Wobus, Boulder, CO  | Sarah Kliegman, Tonasket, WA  |
| David Chambers, Bozeman, MT |                               |

The second theme is that science was manipulated to yield the (then) desired result. In the EIS it is stated, *“Overall, impacts to fish and wildlife would not be expected to impact harvest levels. Resources would continue to be available because no population-level decrease in resources would be anticipated.”* In reviewing both the Draft and Final EISs for the Pebble Mine, CSP2 participated in what is unquestionably the most well-funded and technically competent group of reviewers to critique any mining EIS. This group included world-renowned fisheries biologists who were sharply critical of the company and Corps expert’s finding of no expected impacts to fisheries resources. In the Pebble EIS we have a team of world-renown Ph.D. experts, many with decades of experience in the Bristol Bay drainage itself, being overruled by hired consultants with far less experience and qualifications. The administrative and technical staff at the Army Corps of Engineers gets to choose who they wish to believe. And, if is not obvious, the Corps is not an agency that specializes in aquatic resource management, and is staffed accordingly.

Unfortunately, a politically-driven result is the norm, not the exception. In my experience, most mining EISs rely predominantly on the findings of experts from the company and the consultants paid to prepare the EIS. Comments from outside experts, regardless of the qualifications, are largely ignored. There is no formal or informal review of these findings.

We need to remember that deciding whether a mine should be built, or not, is not a scientific decision. It is a social and political decision. However, science is presumed to inform this process. When science is used to justify a desired political result, no one is well served. Both science and politicians will look bad when the results do not turn out as predicted. This is exactly what is happening now with most mining EISs. You can virtually depend on the results of water quali-

ty impacts for almost all mines, and of fisheries impacts in the case of the Pebble Mine, to be wrong. Science is being cheapened by the present EIS process, and the public is being misled by these results. In short, the EIS process is broken. Everyone knows this, but it serves short-term economic and political interests to ignore this glaring deficiency. Even the EPA has fallen victim. The EPA could study this problem, but it hasn’t.

There needs to be well-qualified, independent, technical review of the findings of an EIS. This should essentially be a peer review process, which is fundamental tenant of science. This is being purposely avoided in the EIS process, largely because it will add time to the review process, and might lead to further analysis. There will always be a significant element that will say ‘just do it’. But for those of us who want to ‘do it right’, especially those who are scientifically and rationally oriented, the present approach of relying on minimally qualified experts who gain financially from supporting a potential development, the present process is broken. The question is, will we even try to fix it?

Development of the Pebble Mine is still possible.

Regulatory and legal challenges remain. Even if these challenges are defeated, there is nothing to prevent Pebble from submitting a new permit application at any time. Pebble needs a permanent fix. This would be best accomplished by giving the Bristol Bay region the same protection it presently enjoys from oil drilling – a prohibition. Alternatively, EPA could re-invoke its 404(c) veto on large mines in this region. Scientifically this is well justified, but it would be politically difficult, because Alaska Senators Murkowski and Sullivan are opposed to this vehicle. The present Alaska governor is an ardent Pebble supporter, but the best solution would still be for Alaskans to put this mine to bed itself. Let’s hope this is in the cards.



*Dave Chambers is the  
Executive Director of CSP<sup>2</sup>*

**By David M Chambers, Ph.D., P. Geop.**

**CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>/CSP<sup>2</sup>**



**THANKS** to the Following Donors for Their Support!!!

|  |   |  |
|--|---|--|
| <u><b>BENEFACTOR (\$1,000 &amp; above)</b></u> | <b>Bill Leighty*</b><br>Juneau, AK                          |  |
| <u><b>GUARANTOR (\$500 - \$999)</b></u>        | <b>Ruth McHenry &amp; Cliff Eames*</b><br>Copper Center, AK | <b>Shirley &amp; Gordon Rock*</b><br>Mercer Island, WA |
| <u><b>STEWARD (\$250 - \$499)</b></u>          | <b>George Neff*</b><br>Austin, TX                           |  |
| <u><b>PATRON (\$100 – \$249)</b></u>           | <b>Alan Septoff*</b><br>Washington, DC                      | <b>Connie Chambers*</b><br>Geneva, IL                  |
|  | <b>Laura Gauger*</b><br>Duluth, MN                          |  |
| <u><b>SPONSOR (\$50 - \$99)</b></u>            | <b>Sylvia Schultz*</b><br>Woodinville, WA                   |  |
| <u><b>SUPPORTER (\$49 &amp; below)</b></u>     |   |  |
|  |   | <i>* Thanks! A repeat donor</i>                        |

- Become a Donor to the **CENTER for SCIENCE in PUBLIC PARTICIPATION**. You can help us to provide local public interest organizations with technical analysis and policy support. **CSP<sup>2</sup>** is the only organization focusing on providing technical support to local groups on local issues. We realize that there are a lot of good causes, and that everyone is asking for your support. A donation of \$50, or more, would help our efforts in furthering rational debate on natural resource issues
- You can make a one-time credit card donation, or set up a monthly donation, by going to the **CSP<sup>2</sup>** website at [www.csp2.org](http://www.csp2.org)

We would like to publish our donors names in The Logbook. If you do **not** want your name published, please let us know when you send in your donation. Thanks

**Mail to: CENTER for SCIENCE in PUBLIC PARTICIPATION**  
224 North Church Avenue  
Bozeman, MT 59715-3706

**Thank you for your support.**  
**Your contribution is tax deductible.**

