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EPA resumes 404(c) process to protect Bristol Bay

Bristol Bay celebrated a huge milestone this fall when the Environmental Protection Agency (EPA) officially reinstated the 2014 Section 404(c) Clean Water Act protections process. If finalized, the determination from EPA could provide the lasting protections Bristol Bay has sought for decades.

The agency announced a deadline of May 31 for issuing a revised proposed determination (proposed determination=proposed protections), but has yet to announce any details about public engagement in the process. EPA's announcement to resume the process was the result of a lawsuit challenging the Trump Administration's decision to withdraw the 2014 proposed protections. An appeals court determined EPA had not met the necessary standard for withdrawing the proposed protections as a result of the lawsuit from many Bristol Bay organizations and allies, Bristol Bay Economic Development Corporation et al. v. Pirzadeh et al.

This milestone moves Bristol Bay one step closer to securing permanent protections but will not be confirmed until the

agency finalizes protections at the end of the multi-step Clean Water Act process (see process steps & information in Figure A on pg. 2). Bristol Bay Tribes and others have asked the agency to finalize protections by the summer, although the EPA's latest announcement illustrates the agency's plans for a slower timeline.

"This is a historic step forward in the long fight to protect Bristol Bay, our fishery, and our people," said Alannah Hurley, Executive Director of United Tribes of Bristol Bay. "The fifteen federally recognized Tribes of the United Tribes of Bristol Bay who call this region home, have worked for decades to protect our pristine watershed that sustains our sacred indigenous way of life. It is critical for the EPA to act quickly and finish the job of protecting our lands and waters."

Bristol Bay supporters have echoed the region's request for protections to be implemented as quickly as possible. Califor-



Bristol Bay youth rally for EPA protections in 2017.

nia Rep. Jared Huffman and several other members of congress sent a March 8 letter asking the agency to "act swiftly to protect one of our last remaining pristine salmon habitats. A 404(c) withdrawal is the best way to provide durable protections for salmon and for the people who call Bristol Bay home."

When the EPA announced that it was resuming the process, the agency stated it would start by working to incorporate the new information that has become available since the protections were initially being considered in 2014. In February, the agency announced that it would give the State of Alaska, Pebble Limited Partnership and others an additional five weeks to provide updated in-

SPECIAL POINTS OF INTEREST:

- * EPA is once again working on permanent protections, with some delays
- * Congressional champions join Bristol Bay residents calling on EPA to swiftly enact protections
- * Permit denial does nothing to stop Pebble (or other companies with mining claims in the area) from reapplying
- * Alaskans say no to Pebble employee serving on state board of fish
- * Bristol Bay expected to beat record run in 2022

Continued: EPA resumes 404(c) process to protect Bristol Bay



Peter Christopher of New Stuyahok testifying in favor of EPA protections at a 2017 hearing in Dillingham.

“This is a historic step forward in the long fight to protect Bristol Bay, our fishery, and our people. The fifteen federally recognized Tribes of the United Tribes of Bristol Bay who call this region home have worked for decades to protect our pristine watershed that sustains our sacred indigenous way of life. It is critical for the EPA to act quickly and finish the job of protecting our lands and waters.”

-UTBB Executive Director Alannah Hurley

formation about their proposed mine project. The EPA has yet to announce when the public will have the opportunity to weigh in.

A brief history of the EPA 404(c) process in Bristol Bay

The EPA’s involvement in Bristol Bay began in 2010 when six Bristol Bay Tribes petitioned the EPA to initiate the Clean Water Act Section 404(c) process to protect Bristol Bay from large scale hard rock mines like Pebble. Section 404(c) protections are rarely used - only 13 times since the passage of the Clean Water Act in 1972 - and have withstood efforts to overturn them, making 404(c) action an incredibly durable and permanent way to protect our region.

After three years of scientific

study the Bristol Bay Watershed Assessment (BBWA) concluded that Pebble would devastate the waters that sustain our fishery and those who depend on it. The Obama Administration EPA proposed protections that would prevent a large mine in the area under the Clean Water Act Section 404(c). Before the protections could be finalized, the Trump Administration illegally withdrew them in 2019, ignoring the extensive scientific, legal and public record that supported EPA finalizing the protections for the region.

After a victorious legal battle and a new Presidential Administration in 2021, the EPA’s process is back on track. This year, the process to finalize EPA protections officially resumes, while we are awaiting announcements from the EPA

on public engagement opportunities, it is likely the agency will take public comment in 2022 and this will be a critical opportunity push for final protections for Bristol Bay.

EPA has the power to end the threat of Pebble for good

Over the last almost twenty years, Bristol Bay has been fighting to protect our way of life. The science and record is clear. The November 2020 major federal permit denial does not permanently protect the region and it is time for the EPA to finalize protections so the threat of mines like Pebble can finally end. 2022 is a critical year for Bristol Bay’s people to have our voices heard and to finalize protections for the region we have called home for millenia, stay tuned for upcoming ways to take action!

EPA’S 404(C) VETO PROCESS IN BRISTOL BAY

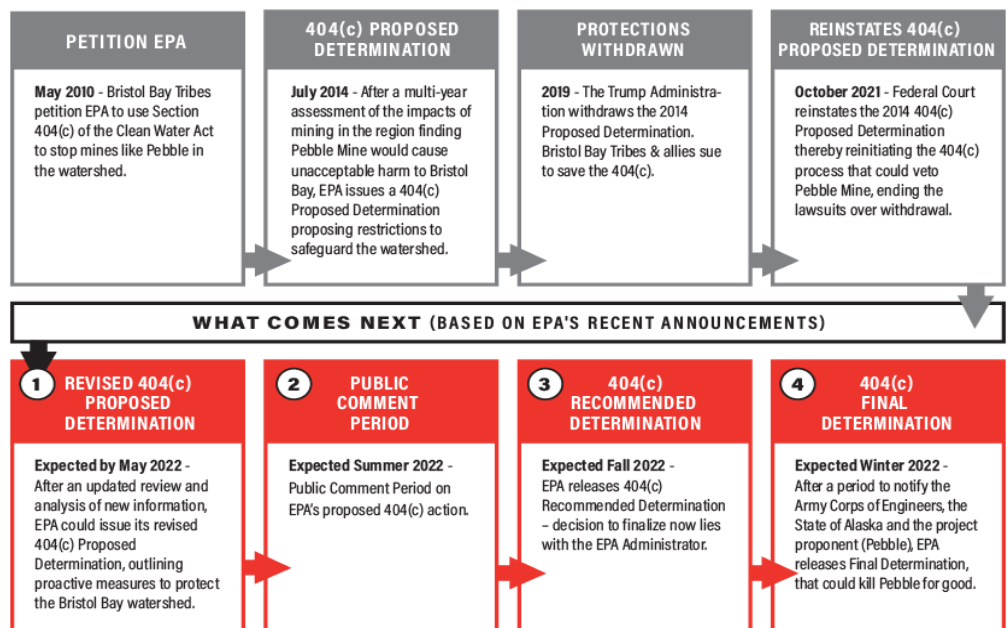


Figure A: EPA’s Clean Water Act Section 404(c) process in Bristol Bay

Pebble's permit denial appeal under consideration

Pebble's fast-tracked permitting process concluded with good news in November 2020 when the U.S. Army Corps of Engineers denied Pebble's key federal permit to build a massive mine at the headwaters of Bristol Bay, but the company quickly appealed the decision and vowed to investors to continue pursuing its toxic project.

On November 25, 2020, the USACE rightfully determined that the project cannot be permitted as proposed. The Corps found that the proposed project would not be in the public interest and Pebble's plan for the discharge and fill material did not comply with guidelines of the Clean Water Act.

That was welcome news throughout Bristol Bay, and celebrated by local leaders.

"The people of Bristol Bay have long known that our home is no place for a mine like Pebble," said UTBB Board President Robert Heyano. "Today, we celebrate the appropriate action taken by the USACE in finally acknowledging this underlying truth: Peb-

ble's proposal is too toxic for our region and cannot be built without devastating the environment that sustains our cultures and communities. But our work is not done. We will continue to advocate for permanent protections for Bristol Bay until we are sure that our pristine lands and waters will remain intact for our children's children and all future generations. A big quyana to all those who have worked to stop this toxic project and to those who will continue to fight for Bristol Bay."

Despite Bristol Bay's decades of opposition, and the clear no from federal regulators, Pebble continues to try to force its unwanted mine on the region. In January of 2021, Pebble appealed the Army Corps' permit and it is now under review by the Army Corps' Pacific Ocean Division.

The Corps typically issues an appeal decision within 90 days, but the process has already been extended as we await a formal decision. The Pacific Ocean Division of the Corps'

spokesperson Luciano Vera stated, "Given the volume and complexity of the information to consider for this particular appeal, it is expected that the process will extend well beyond 90 days to allow for the time necessary to reach an independent and fair decision on the merits of this appeal."

While the permit denial is welcome news in Bristol Bay, we know all too well that the fight to protect Bristol Bay from the threat of mining is far from over. A permit denial does nothing to stop Pebble from reapplying, or other companies with dozens of mining claims in the region, from trying to develop our home. The threat of Pebble and mines like it will continue to loom over Bristol Bay until permanent protections are secured for the region through the EPA Clean Water Act process and Congressional legislation.

"The people of Bristol Bay have long known that our home is no place for a mine like Pebble. Today, we celebrate the appropriate action taken by the USACE in finally acknowledging this underlying truth: Pebble's proposal is too toxic for our region and cannot be built without devastating the environment that sustains our cultures and communities. But our work is not done. We will continue to advocate for permanent protections for Bristol Bay until we are sure that our pristine lands and waters will remain intact for our children's children and all future generations."
-UTBB Board President Robert Heyano

Alaskans reject Pebble employee for state fish board

Last May, the Alaska Legislature overwhelmingly voted against allowing Abe Williams, the Pebble Limited Partnership's Director of Regional Affairs, to serve on the Alaska Board of Fisheries, sending a clear message that a Pebble employee and long time-advocate is not trusted to regu-

late the state's fisheries.

Alaska Governor Mike Dunleavy originally appointed Abe Williams to replace Fritz Johnson of Dillingham in 2020. Williams' appointment was widely opposed by Bristol Bay residents and Alaskans alike, with nearly 1,000 Alaskans

submitting testimony in opposition to Williams' appointment during the confirmation process. The Legislature acted accordingly, with 41 lawmakers voting against Williams' confirmation, and just 18 supporting it.

Many legislators said they did-



“Abe Williams’ work to advance one of the most destructive projects facing salmon habitat in Alaska is clearly at odds with the Board of Fisheries’ charge to sustainably manage the state’s fisheries. I was glad to see the legislature reject his nomination. Today’s vote was a vote against the Pebble Mine. I hope this sends a clear message to Gov. Dunleavy that Alaskans do not want him to continue to promote Pebble at the expense of our communities, fisheries and cultures in Bristol Bay.”

-Commercial Fisherman for Bristol Bay Advisor Robin Samuelsen.

Continued: Alaskans reject Pebble employee for state fish board

n’t believe Williams belonged on the board that regulates the state’s vast fisheries while also working on a mining project that could devastate the State and the world’s largest wild sockeye salmon fishery.

Commercial Fishermen for Bristol Bay Advisor Robin Samuelsen, a former board of fisheries member and Bristol Bay leader, said Legislators made the right choice.

“Abe Williams’ work to advance one of the most destructive projects facing salmon habitat in Alaska is clearly at odds with the Board of Fisheries’ charge to sustainably manage the state’s fisheries,” he

said. “I was glad to see the legislature reject his nomination. Today’s vote was a vote against the Pebble Mine. I hope this sends a clear message to Gov. Dunleavy that Alaskans do not want him to continue to promote Pebble at the expense of our communities, fisheries and cultures in Bristol Bay.”

After lawmakers rejected Williams’ appointment, Dunleavy left the seat unfilled for several months, finally nominating Soldotna’s Indy Walton in early September. Walton’s nomination was nearly three months past the statutory 30-day deadline to fill the vacancy.

Walton, an outspoken opponent of Pebble and Kenai Peninsula resident who commercially fishes in Bristol Bay and owns a lodge on the Kvichak River near Igiugig, served for a few months as a board member before resigning in late 2021 to focus on his health and prior obligations. As of early March, the seat was again empty and the governor passed the statutory deadline to announce a new appointee to the board, meaning the board would be one member short when it meets again in mid-March. The Bristol Bay Board of Fisheries meeting is scheduled for late 2022.

Bristol Bay sockeye return in record numbers

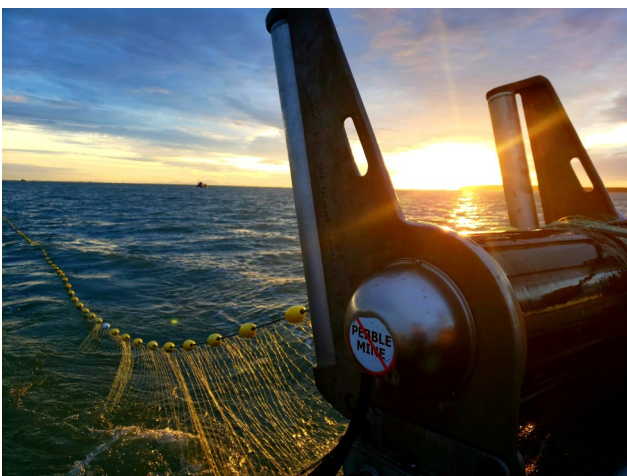
Bristol Bay’s pristine habitat and generations of careful stewardship produced another record-breaking return of wild sockeye salmon last summer - and scientists say next year could be even larger. While

eye salmon run recorded in the history of the commercial fishery, with 66.1 million salmon returning to the bay - the third time in recorded history Bristol Bay’s sockeye run has exceeded 60 million fish.

For 2022, the Alaska Department of Fish and Game and the University of Washington Fisheries Research Institute both expect to see another large return - and possibly a new record, with both groups of scientists saying it’s possible that more than 70 million sockeye could return to Bristol Bay in 2022.

But local leaders and scientists alike have cautioned that in order to see returns of this magnitude again, Bristol Bay’s fisheries must be protected from the threat of major mines.

"For thousands of years, the people of Bristol Bay have welcomed salmon back to Bristol Bay's waters each summer,



Commercial fishing drift boat in Bristol Bay

other parts of Alaska’s fisheries were struggling, Bristol Bay saw the largest sock-

Big numbers and new records were also seen in some of the commercial fishing districts. Fishermen in the Nushagak District set two single day harvest records, with 1.7 million salmon caught on June 30, and then broke that record the very next day with 1.8 million salmon harvested July 1. The large run and harvest contributed to a higher-than-average value for the fishery with all companies paying a base of at least \$1.20/pound.

Continued: Bristol Bay sockeye return in record numbers

and this record-breaking return is the result of this careful stewardship. Our lands and waters must be protected so future generations can continue our way of life and Bristol Bay can remain the salmon stronghold for the planet," said UTBB Executive Director Alannah Hurley. "These run numbers highlight the urgent need for the Environmental Protection Agency to enact 404 (c) protections to permanently remove the looming threat of large-scale hard rock mines like Pebble. While we celebrate the record-breaking salmon returns, our fishery remains in grave danger until the Biden Administration finishes the job to permanently protect Bristol Bay."

Daniel Schindler, a professor and ecologist at University of Washington's school of Aquatic and Fishery Sciences who has studied the Bristol Bay watershed for decades, has said Bristol Bay's large and intact habitat are major contributors to the large number of salmon returning each year. The surrounding watersheds are unin-

terrupted by roads, dams and other development.

"That's one of the reasons Bristol Bay is so unique, is that all of that habitat diversity is still here, and all of that genetic diversity in the salmon and life history diversity is still here," he told KDLG radio in an interview. "And it's interesting scientifically, but it's also important for the fishery, because all of that diversity stabilizes how many fish come back from year to year."

While Bristol Bay has been very fortunate with millions of salmon flooding our rivers, lakes and streams year after year, not every river system in the State has fared as well, making it especially important that we protect the last remaining salmon strongholds. Bristol Bay has been able to share our bounty with some of the regions that have seen weaker returns in recent years, but while sharing provided a taste of fish for some residents, it did not replace the traditional harvest in those communities or fully fill their freezers. This

underscores the need to protect salmon habitat and runs throughout Alaska for healthy and strong communities and ecosystems.

According to the latest report produced by the Alaska Seafood Marketing Institute, Bristol Bay typically accounts for more than half the world's sockeye harvest, and is the largest wild sockeye salmon run in the world. In addition to feeding our families in Bristol Bay, the commercial fishery employs nearly 16,000 people most years, and generates a large portion of the state's fishery-related revenue. In 2019 (the most recent year in the report with full data), Bristol Bay sockeye contributed almost 50 percent of the state's total salmon fishery values.

These numbers make it even more clear: we cannot allow Pebble to jeopardize our life-sustaining and economically-important fisheries and EPA must finalize protections for Bristol Bay before next season to ensure it remains the salmon stronghold for the world.

For thousands of years, the people of Bristol Bay have welcomed salmon back to Bristol Bay's waters each summer, and this record-breaking return is the result of this careful stewardship. Our lands and waters must be protected so future generations can continue our way of life and Bristol Bay can remain the salmon stronghold for the planet. These run numbers highlight the urgent need for the Environmental Protection Agency to enact 404(c) protections to permanently remove the looming threat of large-scale hard rock mines like Pebble. Our fishery remains in grave danger until the Biden Administration finishes the job to permanently protect Bristol Bay." -UTBB Executive Director Alannah Hurley

Supporters call for EPA protections on anniversary of Obama's visit

On the anniversary of President Barack Obama's visit to Bristol Bay, the people of Bristol Bay and our allies across the nation submitted thousands of letters to the Environmental Protection Agency calling for permanent protections for our region's waters. The letters urged the agency to use Section 404(c) of the Clean Water Act

to finalize protections to permanently protect Bristol Bay from mines like Pebble, and reminded President Joe Biden of his campaign commitment.

In August 2020, then-candidate Joe Biden promised: "As President, I will do what President Trump has failed to do: listen to the scientists and experts to

protect Bristol Bay — and all it offers to Alaska, our country, and the world."

The September letter delivery urged the President to fulfill that commitment.

"The people of Bristol Bay are very clear: we want the Environmental Protection Agency to take action to protect our



Alannah Hurley, Mae Syvrud, and President Barack Obama holding Bristol Bay's famed salmon on Kakananak beach.

Continued: Supporters call for EPA protections on anniversary of Obama's visit



President Obama surrounded by Bristol Bay youth in welcoming visit.

watershed,” said UTBB Executive Director Alannah Hurley. “Six years after President Obama stood on our beaches and recognized our region as a national treasure that needed protections, one year after Biden’s campaign promise to finish that work, and almost twenty years of facing this threat, we are still waiting for action. We appreciate the support of so many around the nation who stand with us to call on the EPA to uphold their responsibility and permanently protect Bristol Bay.”

United Tribes of Bristol Bay spearheaded the effort to collect letters and engage the peo-

ple of Bristol Bay to ensure our voices were heard by the federal government. Community volunteers across the region worked with UTBB to distribute thousands of giveaway bags that included informational materials and ways to take action to protect our lands and waters.

President Obama visited Bristol Bay on Sept. 2, 2015, calling it “critical” to “protect this incredible natural resource.” Due to politics, those protections were not finalized under his administration, and then were rolled back by the Trump Administration - leaving it to Biden’s EPA to finish the work

to protect Bristol Bay. Just a little over a week after the letter delivery, the EPA announced in a court filing that it would resume the process to consider protections.

Once again, the progress we’ve made proves that the united voice and efforts of every individual taking action, can make a difference. The unwavering voices of opposition in Bristol Bay have protected our waters to date, and are critical to securing permanent protections to safeguard our children’s future.

See page 7 for info on how to make your voice heard!

“The people of Bristol Bay are very clear: we want the Environmental Protection Agency to take action to protect our watershed. Six years after President Obama stood on our beaches and recognized our region as a national treasure that needed protections, one year after Biden’s campaign promise to finish that work, and almost twenty years of facing this threat, we are still waiting for action. We appreciate the support of so many around the nation who stand with us to call on the EPA to uphold their responsibility and permanently protect Bristol Bay.”

-UTBB Executive Director Alannah Hurley



For the last 20 years, the people of Bristol Bay show up time and again to stop Pebble mine and protect Bristol Bay!

United Tribes of Bristol Bay transitions to new deputy director

After five years, UTBB is wishing our outgoing Deputy Director Lindsay Layland well as she moves on to follow her passion into a new career path. Lindsay's skill set and energy were invaluable to our team and the work to protect Bristol Bay. While she will be dearly missed, we're excited to see her continue to be a positive force in the Bristol Bay region.

"I am beyond grateful for the time and experiences I've had with UTBB over the last 5 years," Lindsay states. "The inspiring Tribal leaders of this

region have shown true perseverance, passion, and grit in protecting their traditional ways of life, and I'm honored to have had the opportunity to serve Bristol Bay's people and communities. I am excited for what the future holds and look forward to pursuing an education degree so I can bring what I've learned on the job with UTBB into the classroom."

It has been a great honor to work with Lindsay and our team, organization, and the work to protect Bristol Bay would not be where it is today

without her countless contributions. Quyana & chin'an for all your hard work, Lindsay, we wish you the best in your future endeavors!

Please join us in welcoming our new Deputy Director, Delores Larson! For the last five years, Delores has done amazing work at UTBB as the Community Engagement Director and we are very excited for her future with us in this new role. Delores will continue to work remotely from her home community of Koliganek, where she and her husband are raising

their family in our subsistence way of life.

"Over the last 5 years, the passion that I have to protect our home has only gotten stronger! I am beyond thankful for this opportunity to serve as Deputy Director," Delores states. "I am honored to work with an amazing team and alongside inspiring leaders who truly make an impact in the work to protect Bristol Bay, quyana!"

Congratulations Delores, we know you are going to continue to do amazing work for our people and region as the new Deputy Director!

What you can do to protect Bristol Bay!

1. **Take action by signing the enclosed postcard addressed to EPA!** Sign the pre-paid postcard & drop in the mail- or sign a letter at utbb.org/public-comment (you can also hold your camera up to the QR code above to sign the letter online)!
2. Protecting Bristol Bay will require the help of Congress – **Call & Write your elected officials** to ask them to support finalizing the EPA Section 404(c) process in Bristol Bay immediately!
3. **Write letters to your editor** - even small local papers are read by our elected officials, and prospective investors read the news as well. They all need to hear how widespread and dedicated the opposition to this mine really is. Don't forget to share your published letter with us!
4. **Be vocal everywhere you can!** Amplify your actions on social media and follow us to stay up to date.

Facebook: @UnitedTribesBB & @FishermenforBristolBay Instagram: @unitedtribesofbristolbay & @Fishermen4BristolBay

5. **DONATE!** Please consider supporting the critical work to protect Bristol Bay! Any and all donations appreciated! To donate please visit: utbb.org/donate or call 907-842-1687.



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