

# Native American Rights Fund

## Indigenous Peoples' Rights

<https://www.narf.org/cases/pebble-mine-bristol-bay/>

## Campaign and Advocacy

In Alaska, Bristol Bay tribal nations seek to protect the areas water ways and unparalleled salmon runs, which are an integral part of the Indigenous peoples traditional lifeways.

Status: Active

*In July 2019, Trumps Environmental Protection Agency announced that it would be removing the 2014 protections which were put in place at the direct request of local tribes. The agency made this about-face without providing reason or explanation. In contrast, the protections being removed were the result of years of scientific research, collaboration, and consideration for the local people who rely on the areas world-class salmon fishery. In October 2019, NARFs client the United Tribes of Bristol Bay and other Bristol Bay organizations sued the Trump Administration for its removal of environmental protections for Bristol Bay. In November 2020, the US Army Corp of Engineers denied the Pebble Mine permit.*

The Native American Rights Fund joined client United Tribes of Bristol Bay (UTBB) in celebrating the U.S. Environmental Protection Agency decision to begin exploring permanent protections for the Bristol Bay Watershed in Alaska. As stewards of these lands and waters since time immemorial, our people welcome this step towards permanent protections for our waters and way of life. Todays announcement by the EPA is a good start in this effort. Its clear the science supports the need for our regions headwaters to be protected from a mine like Pebbles impacts, at the site and downstream, said UTBB Executive Director Alannah Hurley. We appreciate EPAs efforts to address the threat Pebble poses to our lands, waters and way of life in Bristol Bay, and hope to see the agency finalize strong protections this year.

On May 26, UTBB issued the news release below alongside the Bristol Bay Native Corporation (BBNC), Bristol Bay Economic Development Corporation (BBEDC), and Bristol Bay Native Association (BBNA):

Bristol Bay Tribes, fishermen, and communities are pleased to see todays announcement from the Environmental Protection Agency (EPA) regarding revised proposed protections for our lands and waters.

EPA announced it will publish its revised proposed determination on May 26, outlining potential Clean Water Act protections for Bristol Bay. This momentous announcement comes more than a decade after Bristol Bay Tribes, Alaska Native corporations, fishing and other stakeholders initially petitioned the EPA to use the Clean Water Act to protect the region from the threat of large-scale mines like Pebble. Todays announcement is an exciting and overdue step toward permanent protections.

According to EPA, the revised determination will prohibit and restrict discharges of dredged or fill material associated with mining at the Pebble deposit. Bristol Bay regional organizations look forward to reviewing the determination and providing further response in a June 1 press event (details below).

In its announcement, the EPA detailed upcoming opportunities for the public to weigh in on these protections. Bristol Bay organizations are urging the EPA to truly listen to Bristol Bays people and communities about the protections needed to ensure that this action truly safeguards the way of life that has sustained our region since time immemorial.

### A press release from our tribal clients:

Today, Bristol Bay Tribes released the following statement in reaction to [EPAs announcement](#) that the agency intends to further delay the process to protect Bristol Bay from Pebble Mine. A letter sent today indicates the EPA will issue a revised Clean Water Act Section 404(c) Proposed Determination (PD) for Alaskas Bristol Bay watershed by May 31, 2022. This would be a step backward in the process, significantly delaying the timeline beyond the long-standing request of Tribes in the region to finalize protections by the start of the fishing season in June.

We are deeply disappointed that after months of outreach to EPA officials requesting robust Tribal consultation on the process moving forward, EPAs announcement today further delayed the years-long effort to protect Bristol Bay without hearing our input. The Biden administration and the EPA have committed to consult Tribes in their decision-making process, but this should have taken place before todays announcement. Now, at least one more fishing season could be imperiled by uncertainty.

Not only does this move delay long-overdue and urgently needed protections, it also flies in the face of Administrator Regans stated commitment to environmental justice, which he recently touted on his Journey to Justice Tour, said Hurley. Our Tribes deserve better. The EPA must provide Tribes, fishermen, and communities in the region the certainty that their way of life, cultural and spiritual identity, and the local economies are protected. That means, first and foremost, upholding their trust responsibility to the Tribes of Bristol Bay. EPA can and must work quickly to get back on track, the science is clear and they must finalize protections for our region. As the EPAs process moves forward, EPA must advance a science-based and transparent process that includes true Tribal consultation and opportunities for public input. We hope the agency will clarify this timeline so that we can finally achieve permanent protections for Bristol Bay, our Tribes, and way of life as soon as this summer.

### **A press release from our tribal clients:**

#### **Bristol Bay Tribes celebrated today's news that the Environmental Protection Agency has set a timeline for considering permanent protections for the region.**

The agency today announced the timeline for resuming its process to review potential Clean Water Act 404(c) protections for Bristol Bay, with a deadline of May 31, 2022.

Our Tribes look forward to engaging in this critical process for Bristol Bay. The EPA's commitment to transparency and Tribal consultation helps restore our trust in the process, said UTBB Executive Director Alannah Hurley. After almost twenty years, all the parties want certainty. We are pleased EPA is moving forward in a science-based and transparent manner, and with a schedule that can allow for resolution by next summer, consistent with the wishes of our Tribes and Alaskans.

Bristol Bay Tribes first requested Clean Water Act protections in 2010, after years of working to protect our lands and waters from the threat posed by Pebble Mine. After several years of study, EPA issued a science-based recommendation for protections in 2014 that was stalled by politics despite overwhelming public support. Today's commitment makes clear that the agency intends to follow the law and listen to science in resuming this work.

### **A press release from our tribal clients:**

Bristol Bay Tribes and others are celebrating today's news that the Army Corps of Engineers will deny Pebbles major federal permit, as the decision reflects the sound science and overwhelming public opposition to this toxic project.

Today's welcome news also bolsters Bristol Bay's decades-long call for permanent protections to the Bristol Bay Watershed. While the Pebble Partnership has suffered a major setback, the threat of toxic large-scale hard rock mining will continue to loom over Bristol Bay until permanent protections are secured for the region. Future generations should not have to live with the threat of mining developments that would devastate our cultures, communities, and existing economies. We must ensure that Bristol Bay's pristine lands and waters are protected in perpetuity. The fact that this permit denial comes from a pro-development administration speaks volumes to the need for strong, permanent protections for the Bristol Bay watershed and all it sustains.

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: Pebbles 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 quyaná to all those who have worked to stop this toxic project and to those who will continue to fight for Bristol Bay.

### **A press release from our tribal clients:**

[The latest news](#) of Pebbles duplicitous efforts to get a favorable permit decision confirm what Bristol Bay Tribes and residents have long suspected: the Pebble Limited Partnership has engaged for years in a smoke and mirrors campaign to fool Alaskans and the American people about its project, and its time for Alaska's delegation to step in and protect the region from this corrupt company.

Recently-released videos detail the corrupt level of support that the Pebble Limited Partnership and its parent company Northern Dynasty is receiving from boosters in the [state](#) and [federal](#) government, and the Alaska Congressional Delegations willingness to [quietly](#) allow the process to proceed without stopping the project. The videos also show Pebbles deceptions to the public and potential investors as it seeks to build one of the world's largest open-pit mines at the headwaters of Bristol Bay's life-sustaining salmon fishery.

In videos recorded by the Environmental Investigation Agency, Northern Dynasty President and CEO Ron Thiessen and Pebble Limited Partnership CEO Tom Collier outline the company's efforts to curry favor with state and federal officials to rush the permitting process and avoid the usual standards for a permit decision. The videos also show discrepancies between the plan the company is touting to federal regulators, and their private plans for a much larger mine including plans to share infrastructure with other projects such as Donlin and turn Southwest Alaska into a mining district.

Thiessen and Collier detailed regular meetings between Army Corps top staff and top Pebble employees, and explained how the company uses Alaska Governor Dunleavy to make requests to the White House on their behalf. He also noted that the Army Corps chose to apply a streamlined permitting process to this project, with no authority to do so, to support the company in its efforts. Further, the videos also show that Pebbles mitigation plan will not meet a rigorous threshold and that the company has been working hand in hand with the [Army Corps of Engineers](#) and [State of Alaska](#) on the plan, with both planning to approve it and allow the project to proceed to a Record of Decision in the near term.

Thiessen and Collier's statements also make clear that Alaska's senators have been the target of Pebbles duplicitous efforts.

The tapes also detail clear plans for future expansion, include the admission that the current mine plan is not ready for construction, and contains falsehoods about permitting requirements and local support.

The statements also confirm what technical experts have been saying for years: Pebbles plan is incomplete and not yet ready for construction, meaning the environmental review is based on a fictional mine plan, not a plan grounded in construction and environmental realities.

United Tribes of Bristol Bay leaders made the following statements:

It's disturbing to hear that Alaska's senators have been playing politics with Bristol Bay. Our region looked to them for help in stopping a toxic mine that could destroy our communities and cultures, and these tapes indicate that they have only paid lip service to our cause,

while allowing a corrupt and inadequate review process to continue. Its time for the Alaska delegation to listen to their constituents, disavow this project, and help stop Pebble once and for all. -UTBB Executive Director Alannah Hurley

The fact that state and federal authorities are supportive of Pebbles efforts to manipulate the permitting process, and aiding the company in its efforts, shows just how rigged the system is. The government is ignoring its responsibility to its citizens and to our sovereign Tribal nations in Bristol Bay, and instead is working hand in hand with a foreign mining company to advance its interests at Bristol Bays expense. Pebble wants to permit a fantasy mine that ignores the mining and engineering realities of the mine site, terrain and deposit, and the government is assisting them in doing so. This cannot be allowed to continue. There must be a full investigation into this corrupt permitting process immediately. -UTBB Executive Director Alannah Hurley

These videos paint a clear and damning picture of Pebbles tactics, which Bristol Bay has been experiencing for years. From explicit plans to expand in time, to the ways the company has pulled strings at the state and federal levels to rig the permitting process, and continual mistruths about local opposition and life in Bristol Bay, it is obvious that Pebble is selling the promise of false gold, with no concern for the lives, lands or waters they ruin in the process. -UTBB Board President Robert Heyano

On Tuesday, October 8, 2019, NARFs client the United Tribes of Bristol Bay and other Bristol Bay organizations [brought suit against the Trump Administration for its removal of environmental protections for Bristol Bay](#) in the United States District Court for Alaska. In July, Trumps Environmental Protection Agency (EPA) announced that it would be removing the 2014 protections which were put in place at the direct request of local tribes. The agency made this about-face without providing reason or explanation. In contrast, the protections being removed were the result of years of scientific research, collaboration, and consideration for the local people who rely on the areas world-class salmon fishery.

In 2010, six Bristol Bay tribal nations requested protections for the areas water ways and unparalleled salmon runs, which are an integral part of the indigenous peoples traditional lifeways. The areas commercial and sport fisheries also rely on those waters and wild salmon, so it was not surprising that local organizations quickly joined the tribes efforts. The protections represented responsible, science-based management of the rivers, streams, and wetlands. Even with this strong local support, it was a multi-year process to gain protections that included input from a wide range of people and businesses that could be affected.

However, Alaska Governor Mike Dunleavy continued to support the mining interests of Canadian owned, Pebble Ltd. Partnership who want to dig an immense pit mine in the middle of the pristine Bristol Bay wetlands. In June, Dunleavy briefly met with President Trump on Air Force One; subsequently, he told reporters that he was convinced that the president was doing everything he can to work with us on our mining concerns. One day after the meeting, according to CNN, the Environmental Protection Agency held an internal meeting and informed staff that they were reversing course and removing protections for the Bristol Bay.

Despite widespread local support for protecting the bays vulnerable water ways and the extensive scientific research backing the protections and with no further explanation the agency decided to remove the protections for the bay. The decision was political, arbitrary, capricious, and absolutely illegal. The Bristol Bay Defense Alliance, consisting of United Tribes of Bristol Bay, Bristol Bay Native Association, Bristol Bay Regional Seafood Development Association, Bristol Bay Reserve Association and Bristol Bay Economic Development Corporation, are taking legal action on behalf of the local people who rely on the Bristol Bay fishery and all it sustains. The suit is based on the fact that the agency changed its position without good reason or explanation, which are required by law.

United Tribes of Bristol Bay Deputy Director Lindsay Layland describes the groups frustration, Salmon are more than just food for the people of Bristol Bay. Catching, preserving, and eating salmon are part of a genuine and treasured way of life. As sovereign Native nations, our member Tribes have worked in good faith with the US government to protect our resources. Despite our efforts, however, a corrupt political landscape and a few backroom deals have resulted in the illegal withdrawal of peer-reviewed, science-based environmental protections for the worlds most pristine ecosystem and wild salmon habitat. We are calling out the Federal Administration for this wrongdoing, and we will stand with our partners and the people of Bristol Bay in the work to protect our home.

***NARF is proud to stand with the tribal nations as they fight to protect their home and traditions.***

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