

HB

119

<TARGET><BILL>HB 119</BILL><SUBJECT>HB
119</SUBJECT><COMM>HFSH29</COMM></TARGET>

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sponsor Statement

House Bill 119: Bristol Bay Fisheries Act

House Bill 119 aims to further protect Bristol Bay against the impacts of a large-scale, metallic sulfide mine located in the watershed of the Bristol Bay Fisheries Reserve (BBFR).

Bristol Bay boasts the largest sockeye salmon runs on earth and the fisheries targeting those stocks are major economic drivers for the economies in Alaska, Washington and Oregon. Last November, Alaskans clearly expressed their interest in protecting their prized salmon resource by passing Ballot Measure 4, requiring the legislature to approve any large-scale metallic sulfide mine in the BBFR.

HB 119 goes a step beyond the voter initiative, by requiring the Commissioners of the Departments of Natural Resource, Environmental Conservation and Fish and Game, to make independent determinations that an applicant has proven, beyond a reasonable doubt, that a proposed mine would not constitute a danger to the fisheries.

Protecting the waters and wild salmon of the BBFR is of paramount importance to maintaining the region's fisheries, economic benefits, cultural heritage, and unique wild salmon resources.

I invite you to discuss this issue with me further and urge you to support this legislation.

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sectional Analysis

Section 1: Requires development of regulations concerning legislative approval. Defines the meaning of “fisheries” and “permits and authorization”.

Section 2: New subsection requires the commissioners of the Department of Fish and Game, Department of Environmental Conservation, and Department of Natural Resources to make independent determinations that any large-scale metallic sulfide mining will pose no danger to the fisheries.

Section 3: Adds immediate effective date.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 119
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB119-DEC-WQ-03-27-15
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: House Fisheries Committee

Department: Department of Environmental Conservation
Appropriation: Water
Allocation: Water Quality
OMB Component Number: 2062

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services						200.0	45.0	45.0
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	200.0	45.0	45.0

Fund Source (Operating Only)

1004 Gen Fund						200.0	45.0	45.0
Total	0.0	0.0	0.0	0.0	0.0	200.0	45.0	45.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Michelle Hale, Director</u>	Phone: <u>(907)465-5135</u>
Division: <u>Water</u>	Date: <u>03/27/2015 01:20 PM</u>
Approved By: <u>Alice Edwards, Deputy Commissioner</u>	Date: <u>03/27/2015</u>
Agency: <u>Department of Environmental Conservation</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB119

Analysis

The bill requires that the Department of Environmental Conservation Commissioner make an independent determination that an applicant for metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the operation will not constitute a danger to the fisheries.

In order to assist the Commissioner in making the independent determination, the Department requires contractual support in the form of technical assistance and legal counsel in reviewing the numerous permits from multiple state and federal agencies. Each time a permit is issued or significantly modified, a new independent determination will need to be made. For a large mine project that would disturb 640 or more acres of land, as described in existing statute at AS 38.05.142 (c), it is expected that routine, ongoing permit modification and reissuance would result in an annual review.

Costs are based upon issuance costs for Alaska Pollutant Discharge Elimination System (APDES) and Waste Management Plans for large mines. The analysis and determinations used in the issuance of these permits is similar to the analysis and determinations that will be required for the independent determination.

Contractual costs include technical assistance (\$125,000 in the first year) and legal counsel (\$75,000 in the first year). Project start-up date is not known. The Department is assuming that costs would begin in FY19, though this is uncertain.

For years beyond the first independent determination, costs are expected to be reduced given that many of the permits and authorizations will already have been reviewed. Costs for FY20 and beyond are expected to be \$25,000 for technical assistance and \$20,000 for legal counsel.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 119
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB119-DFG-HAB-03-27-15
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: House Special Committee on Fisheries

Department: Department of Fish and Game
Appropriation: Habitat
Allocation: Habitat
OMB Component Number: 486

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services					110.0	50.0	50.0
Travel							
Services					75.0	30.0	30.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	185.0	80.0	80.0

Fund Source (Operating Only)

1004 Gen Fund					185.0	80.0	80.0
Total	0.0	0.0	0.0	0.0	185.0	80.0	80.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial Fiscal Note

Prepared By:	Anthony DeGange, Director	Phone:	(907)267-2228
Division:	Habitat	Date:	03/27/2015 04:00 PM
Approved By:	Sunny Haight, Administrative Services Director	Date:	03/27/15
Agency:	Fish and Game		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB 119

Analysis

House Bill 119 will require the Commissioner of Fish and Game make an independent determination that an applicant for a metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the operation will not constitute a danger to the fisheries.

The Commissioner will need assistance in the form of subject matter expertise from staff and legal assistance in reviewing the numerous permits from multiple state and federal agencies, in order to make the independent determination. Each time a permit is issued or significantly modified, a new independent determination will need to be made. For a large mine project, it is expected that routine, ongoing permit modification and reissuance would result in an annual review.

The costs associated with carrying out the requirements in HB 119 are based upon the annual salary of a Habitat Biologist III at approximately \$110,000 in the first year and \$50,000 in subsequent years, and anticipated legal assistance of \$75,000 in the first year and \$30,000 in subsequent years. These costs are projected to begin in FY2019 as there are currently no mines that meet the criteria of the bill poised to need the legislative approval required if this bill becomes law. We estimate that FY2019 would be the soonest any potential mine would need to be evaluated under these new requirements.

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 119
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB119-DNR-MLW-3-31-15
Title: LEG. APPROVAL OF BRISTOL BAY SULFIDE
MINE
Sponsor: JOSEPHSON
Requester: House FSH

Department: Department of Natural Resources
Appropriation: Fire Suppression, Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates					
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services			10.0		250.0	250.0	250.0	
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	10.0	0.0	250.0	250.0	250.0	250.0

Fund Source (Operating Only)

1004 Gen Fund			10.0		250.0	250.0	250.0
Total	0.0	0.0	10.0	0.0	250.0	250.0	250.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 06/30/17

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Brent Goodrum, Director</u>	Phone: <u>(907)269-8625</u>
Division: <u>Mining, Land & Water</u>	Date: <u>03/31/2015 12:00 AM</u>
Approved By: <u>Mark Myers, Commissioner</u>	Date: <u>03/31/15</u>
Agency: <u>Department of Natural Resources</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB119

Analysis

This analysis assumes that the bill requires one finding/report process (under proposed AS 38.05.142(d)) at the initiation of each individual large-scale metallic sulfide mining operation, prior to final legislative authorization. Then a "revised" finding/report process (under proposed AS 38.05.142(e)) is required to be submitted to the legislature every time significant changes are made to the previously authorized permit/authorization or there is a "significantly different" new permit, but there is no further legislative approval process.

Under Sec. 2, The Department of Natural Resources (DNR) would be required to develop an independent finding that the applicant for a large-scale metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve has proven beyond a reasonable doubt that the proposed mine does not constitute a danger to the fisheries.

After the potentially lengthy judicial review process, which may include a review of whether DNR adequately complied with the requirements of proposed AS 38.05.142(d)(1), DNR would be required to prepare a report to the legislature that contains each of the findings prepared by DNR, the Department of Environmental Conservation (DEC) and the Department of Fish and Game (ADF&G). A report under this section would be subject to requirements for an undefined "interagency public process", an undefined "peer review" process and an opportunity for the public to comment on the report.

DNR anticipates that because it is required to prepare an independent finding for each mine under proposed AS 38.05.142(d)(1) without the assistance of DEC or ADF&G, and because DNR does not employ subject matter experts in fisheries or water quality, that DNR will be required to contract for private subject matter experts in these fields to complete those elements of the finding. Further, DNR does not know how many or when such mines may be initiated within the watershed, or when revisions to the reports under proposed AS 38.05.142(e) will be required over time. To contract for these services DNR anticipates the need for at least \$150.0 per year to have the capacity to prepare the required findings and reports. It is uncertain when this would begin, however it is likely that it would take at least two years minimum to go through the permitting and there may be judicial review beyond that. Therefore the expected cost incurred will not begin until FY2019.

DNR also anticipates that legal challenges to its permitting decisions will increase in number and scope as a result of the proposed legislation, particularly in defense of whether DNR has adequately met the undefined requirements of proposed AS 38.05.142(d)(1). To address the increased costs to defend its findings under proposed AS 38.05.142(d)(1), DNR anticipates at least \$100.0 will be required annually to provide minimal funding for the Department of Law to respond to these challenges.

Proposed AS 38.05.142(b) requires DNR to adopt regulations to implement this section of law. Although there is no due date, it is anticipated that we would have to hire a contractor to help craft and promulgate these regulations by the end of FY2017.



Council of
Alaska Producers

**Comments on HB119
Bristol Bay Fisheries Reserve**

March 31, 2015

Representative Louise Stutes, Chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Representative Stutes,

The Council of Alaska Producers (CAP) appreciates the opportunity to provide comments on HB119, "An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date."

CAP, a non-profit trade association formed in 1992, serves as a spokesperson for the large metal mines and major metal developmental projects in the state. Bringing together mining companies with interest in Alaska, the Council represents and informs members on legislative and regulatory issues, supports and advances the mining industry, educates members, the media, and the general public on mining related issues, and promotes economic opportunity and environmentally sound mining practices.

The Council adamantly opposes HB119 which seeks to further complicate statutes created by Ballot Measure 4 (2014). HB119 and Ballot Measure 4 add new regulatory steps for one project (a potential large scale, metallic sulfide mine) in one part of the state (the Bristol Bay watershed). Ballot Measure 4 raised significant constitutional issues about the separation of powers that are still before the courts and CAP is part of the coalition seeking to have the initiative overturned. HB 119 does not clarify these constitutional issues nor does it improve the existing large mine permitting process in the State of Alaska.

We support all efforts to fully fund and continuously strengthen the permitting functions of the resource agencies. Unfortunately HB119 simply adds unnecessary delays and costs in an effort to undermine the feasibility of one project. By creating an infinite loop of administrative and legislative approvals for any permit change, HB 119 establishes a regulatory system based on politics, not science. Ballot Measure 4 and now HB199 have and will continue to result in investment dollars leaving Alaska as investors seek jurisdictions that value science based regulatory systems that are efficient, transparent and predictable.

Given the importance of diversifying and strengthening Alaska's economy and encouraging development that provides jobs and opportunities for Alaskan families, the state should not discourage investment by politicizing the regulatory system.

Sincerely,

Karen Matthias
Managing Consultant



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

Founded 1975
Executive Director
Rick Rogers
2014-2015 Executive Committee
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Stephen Grabacki
Dan Graham
Scott Habberstad
Karl Hanneman
Rock Hengen
Steve Hites
Teresa Imm
Michael Jespersen
Mike Jungreis
Christine Klein
Thomas Krzewinski
John Lau
Tom Lovas
Thomas Mack
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Karen Matthias
Sam Mazzeo
Ron McPheters
James Mery
Lori Nelson
Tom Panamaroff
Lisa Parker
Judy Patrick
Shannon Price
Mike Satre
Joe Schierhorn
Keith Silver
Loral Simon
Doug Smith
Phil Steyer
John Sturgeon
Casey Sullivan
Jan Trigg
Doug Ward
Sinclair Wilt
Ex-Officio Members
Senator Lisa Murkowski
Senator Dan Sullivan
Congressman Don Young
Governor Bill Walker

April 3, 2015

Louise Stutes, Chair
House Fisheries Committee,
State Capitol Room 416
Juneau, AK 99801

RE: HB 119 An Act relating to the Bristol Bay Fisheries Reserve; and providing for an effective date

Dear Representative Stutes,

The Resource Development Council for Alaska (RDC) welcomes the opportunity to comment on HB 119, a bill requiring legislative approval of any sulfide mine within the Bristol Bay region.

RDC is a statewide, non-profit, membership-funded organization founded in 1975. The RDC membership is comprised of individuals and companies from Alaska's oil and gas, mining, timber, tourism, and fisheries industries, as well as Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to link these diverse interests together to encourage a strong, prosperous economy for Alaskans.

RDC is strongly opposed to this bill. HB 119 simply compounds the serious problems with ballot measure 4. Ballot measure 4 undermines constitutional separations of powers and requires the Alaska Legislature to second-guess the teams of permitting specialists and scientists hired by the executive branch to implement rigorous permit standards established by statute by the legislature.

HB 119 makes ballot measure 4 worse by clarifying that the legislature will be micromanaging virtually every decision related to a large sulfide mine in Bristol Bay watershed including essentially all decisions, renewals, extensions, etc. This process is duplicative of the permitting process and we note adds considerable expense to the state with fiscal notes on record totaling over a half million dollars.

In these times of fiscal and economic uncertainty we encourage the Alaska Legislature to improve efficiencies and seek means of diversifying Alaska's economy. HB 119 creates uncertainty for companies that are both investing and contemplating investment

April 3, 2015 Representative Louis Stutes re. HB 119

in Alaska. This bill sends a message that the Alaska Legislature does not trust the rigorous, science-based permitting process that is in place. Alaska has a proud record of balancing the important protections needed for our renewable fisheries resources while creating jobs and economic benefits from our below ground resources. Unfortunately even hearing a bill such as this could discourage needed investment to grow our private sector economy.

We urge all members of this committee to send a message that Alaska has a serious rigorous permitting process, and that we are open for business to those that can meet or exceed our rigorous standards – standards that will be fairly and consistently applied to all projects. Please convey this message by not passing this bill out of committee.

Thank you for your consideration of our comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Rick Rogers", with a long horizontal flourish extending to the right.

Rick Rogers
Executive Director

**Alaska Independent Fishermen's
Marketing Association**

P.O. Box 60131
Seattle, WA 98160
Phone/Fax (206) 542-3930



March 11, 2015

Representative Louise Stutes
State Capitol, Room 416
Juneau, AK 99801-1182

Re: Request for Hearing on HB 119

Dear Representative Stutes,

Congratulations on your designation as Chair of the House Special Committee on Fisheries. I am certain that you appreciate the importance of maintaining our fisheries.

The Alaska Independent Fishermen's Marketing Association (AIFMA) is the oldest commercial fishing organization in Bristol Bay. I am writing as president of the Association to request that the House Special Committee on Fisheries hold a hearing on HB 119. It would improve upon, and clarify, the recently-enacted initiative which requires legislative approval of any large-scale metallic sulfide mine in the drainages of the Bristol Bay Fisheries Reserve.

I would be pleased to testify in support of HB 119 and answer any questions about our Association and its support for the bill.

Regards,

David Harsila,
President

EKWOK VILLAGE COUNCIL (EVC)

P.O. BOX 70

EKWOK, AK 99580

907-464-3336

Fax - 3378

Date: March 24, 2015

Representative Louise Stutes
State Capitol, Room 416
Juneau, AK 99801-1182

Via Fax: 907-486-5264

Re: HB 119 -- Request for Hearing by House Special Committee on Fisheries

Dear Representative Stutes,


Ekwok, on the Nushagak River, is represented by the Ekwok Village Council and the Ekwok Village Corporation. In the last general election, our community voted strongly in favor of Ballot Measure 4. It passed. It requires final authorization by the legislature of any large-scale metallic sulfide mine in the drainages of the Bristol Bay Fisheries Reserve, including the Nushagak River drainage where Ekwok is located.

Because you represent Kodiak and serve as Chair of the House Special Committee on Fisheries, you know how important our salmon fisheries are.

The Ekwok Village Council and the Ekwok Village Corporation request that the House Special Committee on Fisheries hold a hearing on HB 119. It would improve upon, and clarify, Ballot Measure 4.

We would be pleased to testify in support of HB 119. We urge that it be passed out of the fisheries committee with a do-pass recommendation, so that it can move on to the next committee, which will be the House Resources Committee.

Sincerely:


Luki Akelkok Sr.
President

2014 GENERAL ELECTION
November 4, 2014
Official Results

Date:11/25/14
 Time:14:55:03
 Page:6 of 8

Registered Voters 509011 - Cards Cast 285449 56.08%

Num. Report Precinct 441 - Num. Reporting 441 100.00%

HOUSE DISTRICT 34			
		Total	
Number of Precincts		7	
Precincts Reporting		7	100.0 %
Times Counted	8437/13819		61.1 %
Total Votes		8251	
McGuan, George	DEM	3090	37.45%
Muñoz, Cathy E.	REP	5132	62.20%
Write-in Votes		29	0.35%

HOUSE DISTRICT 40			
		Total	
Number of Precincts		23	
Precincts Reporting		23	100.0 %
Times Counted	4421/9057		48.8 %
Total Votes		4102	
Nageak, Benjamin P.	DEM	3982	97.07%
Write-in Votes		120	2.93%

HOUSE DISTRICT 35			
		Total	
Number of Precincts		14	
Precincts Reporting		14	100.0 %
Times Counted	8069/14196		56.8 %
Total Votes		7843	
Samuelson, Steven A.	REP	3189	40.66%
Kreiss-Tomkins, Jona	DEM	4630	59.03%
Write-in Votes		24	0.31%

Ballot Measure 2 - 13PSUM			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		279945	
YES		149021	53.23%
NO		130924	46.77%

HOUSE DISTRICT 36			
		Total	
Number of Precincts		10	
Precincts Reporting		10	100.0 %
Times Counted	7157/13064		54.8 %
Total Votes		6978	
Ortiz, Daniel H. "Da	NA	3530	50.59%
Klein, Chere L.	REP	3426	49.10%
Write-in Votes		22	0.32%

Ballot Measure 3 - 13MINW			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		280694	
YES		194654	69.35%
NO		86040	30.65%

HOUSE DISTRICT 37			
		Total	
Number of Precincts		35	
Precincts Reporting		35	100.0 %
Times Counted	5015/9788		51.2 %
Total Votes		4286	
Edgmon, Bryce	DEM	4173	97.36%
Write-in Votes		113	2.64%

Ballot Measure 4 - 12BBAY			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		273702	
YES		180490	65.94%
NO		93212	34.06%

HOUSE DISTRICT 38			
		Total	
Number of Precincts		31	
Precincts Reporting		31	100.0 %
Times Counted	5198/10328		50.3 %
Total Votes		4829	
Herron, Bob	DEM	4683	96.98%
Write-in Votes		146	3.02%

Supreme Crt-Justice Stowers			
		Total	
Number of Precincts		441	
Precincts Reporting		441	100.0 %
Times Counted	285449/509011		56.1 %
Total Votes		233363	
YES		146829	62.92%
NO		86534	37.08%

HOUSE DISTRICT 39			
		Total	
Number of Precincts		33	
Precincts Reporting		33	100.0 %
Times Counted	5835/10718		54.4 %
Total Votes		5406	
Foster, Neal W.	DEM	5277	97.61%
Write-in Votes		129	2.39%

Sup Court JD1 Menendez			
		Total	
Number of Precincts		43	
Precincts Reporting		43	100.0 %
Times Counted	33700/56357		59.8 %
Total Votes		28498	
YES		21078	73.96%
NO		7420	26.04%

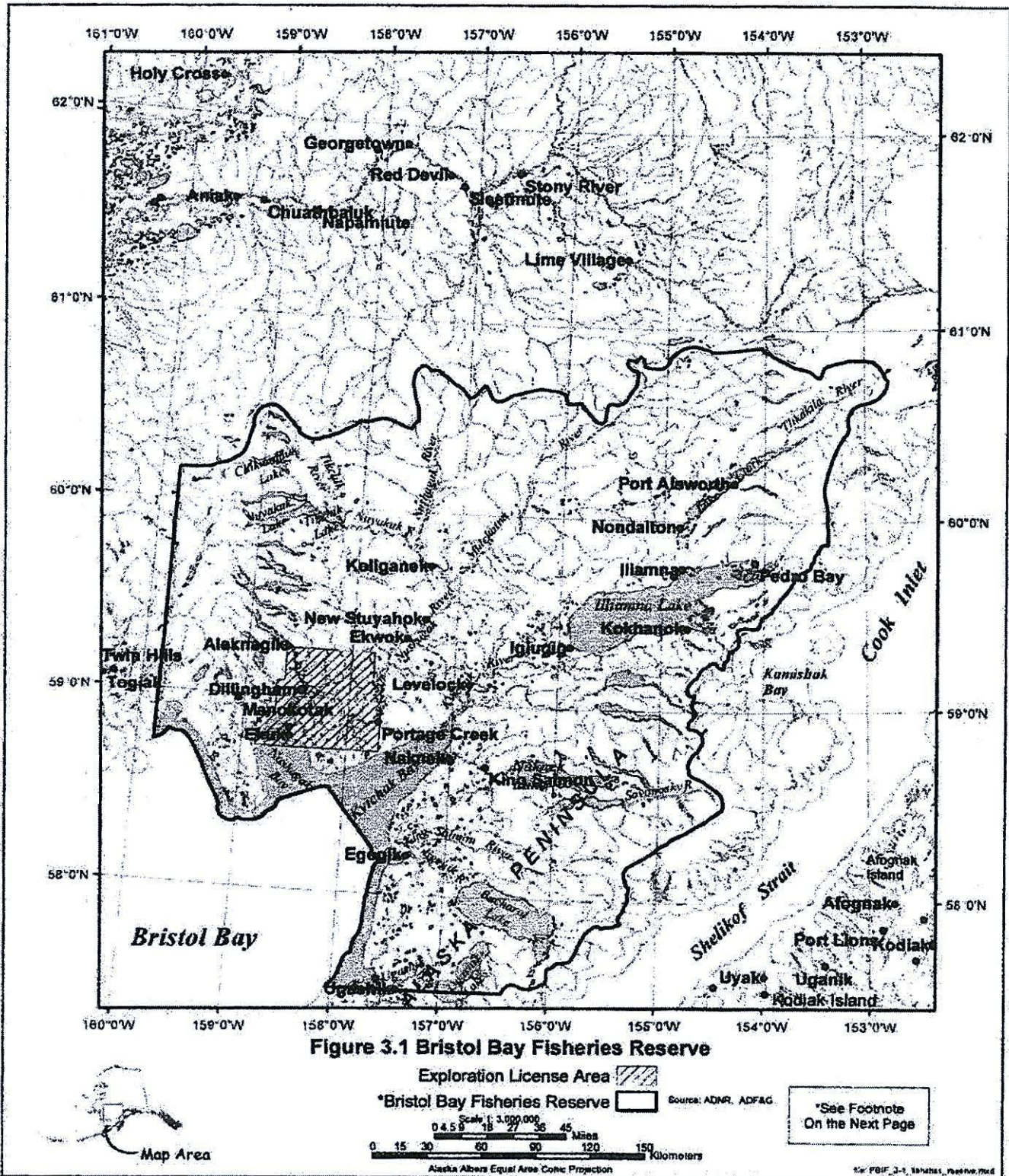



Figure 3.1 Bristol Bay Fisheries Reserve

Exploration License Area 

*Bristol Bay Fisheries Reserve 

Source: ADMR, ADFAG

*See Footnote
On the Next Page

Scale 1:3,000,000
0 4.5 9 18 27 36 45 Miles

0 15 30 60 90 120 150 Kilometers

Alaska Albers Equal Area Conic Projection

Fig 3-1, habitat, reserve.mxd

Footnote Figure 3.1

Portions of the license area are located within the Bristol Bay Fisheries Reserve. The Legislature created the reserve under AS 38.05.140(f) and specified:

"The submerged and shore land lying north of 57 degrees, 30 minutes North latitude and east of 159 degrees, 49 minutes West longitude within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve. Within the Bristol Bay Fisheries Reserve, a surface entry permit to develop an oil or gas lease or an exploration license under AS 38.05.131-38.05.134 may not be issued on state owned or controlled land until the legislature by appropriate resolution specifically finds that the entry will not constitute danger to the fishery."

The boundary depicted in this figure is an approximation of the area containing water bodies within the Bristol Bay drainage subject to the conditions of AS 38.05.140(f).

The Bristol Bay region is one of the most productive fish resource areas in the state. The area supports runs of five salmon species and is known for the world's largest sockeye salmon run. In addition to salmon, a variety of marine and freshwater fish all contribute to the commercial, recreational and subsistence use of the region. These resources play a significant role in both the local and state economies

The major river system through the license area is the Nushagak River drainage. Table 3.2 lists anadromous water bodies catalogued by OHMP, pursuant to AS 41, within and near the license area. Lands under consideration for licensing provide spawning and rearing habitat, as well as migratory routes, for five species of Pacific salmon. Sockeye salmon is by far the most abundant, but all species are present in considerable numbers. From 1981-2000, estimated sockeye salmon escapement for the Nushagak River has averaged over 490,000 fish (Table 3.3). For Wood River, a tributary to the Nushagak, the 20-year average escapement was an estimated 1.2 million sockeye (Table 3.3). However, the Kvichak River drainage and the Naknek River drainage, to the south of the license area, historically have produced the largest sockeye salmon runs in the world. Between 1997 and 2001, an average escapement of nearly four million sockeye salmon was estimated for these two drainages (OHMP 2003, citing to Weiland et al. 2002). The other major sockeye salmon systems in Bristol Bay include the Igushik, Alagnak Ugashik, Togiak and Egegik rivers. The Igushik, and Snake rivers are also within the license area.

Table 3.2 Catalogued Anadromous Fish Streams Within or Adjacent to the License Area

Catalog No.	Stream Name	Fish Species*	Quad
325-10-10010	Igushik River	Ss,Ks,COs,Ps,CHs,ACp	Nushagak Bay D-3
325-20-10030	Snake River	Ss,Ks,COs,Ps,CHs,ACp	Nushagak Bay D-3
325-20-10030-2009	Weary River	Ss,Ks,COs,Ps,CHs,ACp	Nushagak Bay D-3
325-20-10030-2024		COr	Dillingham A-8
325-30-10100	Nushagak River	Ss,Ks,COs,Ps,CHs,ACp,Wp	Nushagak Bay D-2,Dillingham A-6
325-30-10100-2060		Ss,Ks,COs,Ps,CHs,ACp,Wp	Nushagak Bay D-1,Naknek D-6
325-30-10100-2080	Keefer Cutoff	Ss,Ks,COs,Ps,CHs,ACp,Wp	Naknek D-6
325-30-10100-2021	Squaw Creek	Kr,COsr	Dillingham A-7
325-30-10100-2021-3012		COr	Dillingham A-7
325-30-10100-2031	Wood River	Ss,Ks,COs,Ps,CHs,ACp,Wp	Dillingham A-7
325-30-10100-2031-3028	Muklung River	Ss,Ks,COs,Ps,CHs,ACp	Dillingham A-7, B-7
325-30-10100-2031-3029	Belt Creek	COp	Dillingham A-7
325-30-10100-2031-3051	Silver Salmon Creek	COp	Dillingham A-7
325-30-10100-2031-3054	Arcana Creek	Ss,COs,Ps,CHs	Dillingham A-7
325-30-10100-2101	Iowthia River	Ss,Ks,COs,Ps,CHs,AC	Dillingham A-5,A-6,B-7

*K=Chinook Salmon, CO=Coho Salmon, S=Sockeye Salmon, P=Pink Salmon, CH=Chum Salmon, AC=Arctic Char, W=Whitefish, s=spawning, p=passage and r=rearing.

Source: Fink, 2003, personal communication



Environment

"If it's a choice between fish and mining, we go away. Fish have to come first."

— JOHN SHIVELY, FORMER CEO

Interviewed on *Dan Rather Reports*

That's the commitment that the Pebble Partnership has always made.

Environmental Stewards

There's a reason we've spent more than 8 years and \$120 million conducting the most extensive environmental studies ever undertaken in Alaska. The [Environmental Baseline Document \(EBD\)](#) is a critical component in the next phase: finalizing a mine plan. It provides an understanding of environmental characteristics as they exist today, on a physical, biological and socioeconomic level. Minimal impact on the ecosystem is the goal, so that day-in, day-out, the natural rhythm of the place is as unchanged as possible. Because in building this mine, we expect to be held accountable. We wouldn't have it any other way.



Climate

"Windy!"

That's what you'd probably say, if you had to choose just one word to describe conditions at the Pebble Deposit. According to the climate scientists who monitor the area's meteorology stations, wind conditions at the mine site can be described as "calm" less than 2% of the time. Hold on to your hats, folks!

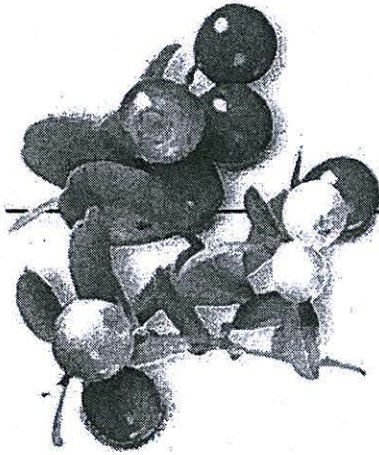


In the summertime, the maritime influences of Iliamna Lake, the Cook Inlet and Bristol Bay tend to cool the air, keeping summer temperatures mild. The warmest temperature documented at the Deposit in the EBD was 75.7° Fahrenheit. In the winter, the lake freezes over and the bay ices-up, so they play less of a moderating role; winters at Pebble are overcast and damp. Occasionally, there's a hard cold snap when frigid Arctic air moves in, but that tends to be brief. The lowest temperature recorded at the Deposit in the EBD was measured during just such a cold snap: -31.5° F in January of 2006.

Although it tends to be about 5° colder at the Deposit than at Iliamna Airport, typically, temperatures follow the same curve. You can get a pretty good sense of conditions at Pebble by [looking up the airport's meteorological records](#) (the airport code is PAIL).

Plants

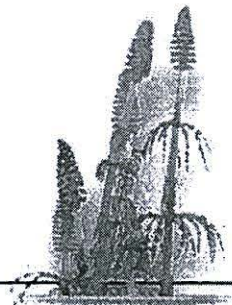
The entire mine study area is in an ecological zone termed "low scrub shrub," more than 80% of which is covered in low (under 5' tall) ericaceous shrubs, alders, willows and lichens. Roughly 10% is made up of "herbaceous vegetation" with a smattering of forest, and the rest is water (shallow lakes, rivers and streams).



Ericaceous Shrubs?

Ericaceous shrubs are members of the heather family, *Ericaceae*, and they're the most common plant in the mine study area. You're probably familiar with some of the edible species of *Ericacea*, like the lingonberry (*Vaccinium vitis-idaea*), black crowberry (*Empetrum nigrum*) or bog bilberry (*Vaccinium uliginosum*). There are also much less edible ericaceous shrubs, like the poisonous bog rosemary (*Andromeda polifolia*), which isn't related to rosemary at all.

One interesting understory plant is horsetail or snakegrass (*Equisetum*). As a modern plant, *Equisetum* are not rare—they're found on every continent but Antarctica, and can be considered invasive—but botanically they're notable for being something of a living fossil. *Equisetum* is the only surviving member of a plant family that dominated the forests of the late Paleozoic Era before the advent of the dinosaurs. Some grew to be over 100 feet tall, and were the trees of their day.



In some places, the willows and alders form thickets. In their understories, we find plants like Devil's club (*Oplopanax horridus*), Alaska spiraea (*Spiraea beauverdana*), broad buckler ferns (*Dryopteris dilatata*), white currants (*Ribes glandulosum*), and perhaps Alaska's most distinctive flower, fireweed (*Epilobium angustifolium*).

Water

As mentioned above, about 10% of the mine study area is surface water, and through rivers, streams and seepage much of it eventually flows into rivers that lead to Bristol Bay. Technically, there are eight watersheds in the Bristol Bay area. The Pebble Deposit is near the headwaters of three tributaries: the north and south fork Koktuli, and Upper Talarik Creek. Cumulatively, the three watersheds represented by these tributaries amount to less than 1% of the Bristol Bay Drainage.

Maintaining water quality will always be a concern, as many streams and rivers of the region are spawning and rearing grounds for all five species of Alaska salmon, as well as Arctic grayling, Dolly Varden, trout and other sport, subsistence and commercial fish. It's very important that we understand as much as possible about the waterways and how they interrelate.



Surface, Subsurface and Quality

We funded years of research into the water of the study area—surface water and groundwater hydrology, and overall water quality—to develop a comprehensive understanding of both water quality and quantity, and how the different systems interact. Through a network of automated sensors, stream flow was measured every 10–15 minutes during ice-free months, and manually through bore-holes after freeze-up. Piezometers installed at hundreds of monitoring locations recorded more than 14,000 groundwater level measurements to document subsurface water behavior. And 3,400 samples were



taken from streams and rivers, lakes and marshes, shallow- and deep-bore wells, testing temperature and pH, nutrients, ions, dissolved and trace elements, organic carbon and more.

What did we learn about water?

More than can be neatly summarized here—the details span six chapters of Pebble's Environmental Baseline Document. A thumbnail description of the watershed would be a bit like describing the Mona Lisa as "an enigmatic smiling lady." Accurate if you're already familiar with her, but not very useful if you aren't. It's complicated, and very much greater than the sum of its highly interrelated parts. As an introduction to the findings, we suggest referring to pages 37–46 of our overview publication, The Pebble Environment.



Wildlife

Co-existence. It's not a term or goal the Pebble Partnership takes lightly—co-existing with fish and the surrounding environment is a core principle at Pebble. To support a cooperative mine design, we're studying what species of fish are present and how they use the nearby streams. Where are the fish spawning, rearing and feeding? What does the fish habitat look like and how does it function? How wide and deep is the channel? How fast are the flows? Are there pools, runs, riffles, backwaters? What types of organisms feed fish? This information, combined with water quality data, are part of the many puzzle pieces the Partnership is evaluating.

Studying the fish specifically and indications of impacts to the fishery is only part of the equation. However, the fact that fish migrate to sea for several years and are exposed to numerous threats from fishing to marine hazards, makes them poor indicators of local and real time impacts. So Pebble also studies macroinvertebrates and periphyton, small stream dwelling organisms that are extremely sensitive to environmental change and tell us almost immediately of any changes to the local environment.



Mammals

A 2009 study, conducted in cooperation with the Alaska Department of Fish and Game, estimated about 48–58 brown bears per 386 square miles in the area surrounding Lake Iliamna. That's a lot of bears that you might accidentally encounter while out in the field, and it's why one of the important jobs that area residents have taken on during the project's discovery phase is serving as bear guards. It's difficult for scientists and engineers to focus on fieldwork and maintain a constant lookout, so bear guards are trained to do it—and their traditional knowledge of the area is invaluable. When a bear is spotted, all work stops, and, if necessary, helicopters are called in. Getting people out of the bears' way, rather than the other way around, is the fundamental principle of our bear program.

The Mulchatna Caribou Herd has a varied history of use of the area but currently their principal range is farther to the west. In recent years they migrate into the area around midsummer after calving elsewhere.

Of course, there are more than just brown bears and caribou in the study area. Biologists documented the presence, in low densities, of more than 40 species of mammal including coyote, river otters, moose, red fox, wolverines, black bear, beaver, tundra hare, lynx, gray wolves and martens. A 2010 survey of moose estimated 0.03 moose per .39 square miles, or 33 moose for the mine area. The combined mine and transportation study areas were estimated to be home to about 96 moose.

Bird Life

From geese and ducks to cormorants and cranes, at least 37 species of waterbirds inhabit the ponds, lakes, river and wetlands of the Bristol Bay drainage study area, with 16 species using the Cook Inlet drainage study area. Some come to breed, others merely passthrough on their migration. Hundreds of ducks gather in the lower Inskin River in preparation for spring and fall migrations, for example. The area is also home to raptors—eagles, falcons, owls, ravens and more. Over two seasons—2004 and 2005—researchers identified 73 raptor nests in the mine study area belonging to seven species, and 23 nests in the much smaller Cook Inlet study area belonging to three species. In both areas, bald eagle nests were the most abundant of all. And of course, there are the landbirds and shorebirds—neither waterfowl nor raptor. These typically smaller, colorful birds swarm the area each summer.

While the practice is not as common today, cormorants in China and Japan have been trained to use their natural diving abilities to catch fish for fisherman. Many of us remember first learning about these birds in the children's book *The Story About Ping*, by Marjorie Flack.

HB 119 - Talking Points

Background

In 1972, the Alaska Legislature enacted the Bristol Bay Fisheries Reserve (AS 38.0.140(f)). It provides that within state land beneath navigable waters (i.e., submerged and shorelands) a surface entry permit for oil and gas drilling within the Reserve may not be issued until the Legislature finds that such drilling will not constitute a danger to the fisheries.

In 2014, the voters enacted an initiative (AS 38.05.142) which provides that in addition to permits or authorizations otherwise required by law, any metallic sulfide mining operation within the drainages of the Reserve must obtain a final authorization by the Legislature taking the form of a law that contains a finding that such a mining operation will not constitute a danger to the fisheries.

What HB 119 Does

HB 119 clarifies or improves the initiative in several respects, including these:

- 1. It requires independent peer-reviewed reports to the Legislature to facilitate any legislative consideration required by the initiative.** HB 119 requires the Departments of Natural Resources, Fish and Game, and Environmental Conservation to independently prepare and submit reports to the Legislature, that are subjected to public comment and peer review, to document whether an applicant for permits and authorizations for a large scale metallic sulfide mine in the Reserve has carried the burden of proving beyond a reasonable doubt that such a mine will not constitute a danger to the fisheries within the Reserve.
- 2. It clarifies and defines “fisheries” consistent with existing statute.** HB 119 defines “fisheries” to mean subsistence, personal use, sport or commercial fisheries as those fisheries are defined in AS 16.05.940.

Reasons for these Clarifications and Improvements

Requiring an applicant to carry the burden of proof, and defining “fisheries” consistent with statute, and implement:

- the pledges of the Pebble Limited Partnership (PLP) that “fish come first” and that PLP will not develop a mine that damages Alaska’s fish and wildlife or the communities dependent on them;
- the Sustained Yield Clause of the Alaska Constitution (Art. VIII. § 4), and
- the State’s Sustainable Salmon Management Policy at 5 AAC 39.222(c)(5)(A)(v), which places the burden of proof on those who plans or activities could be a danger to the fisheries.

Working Together.



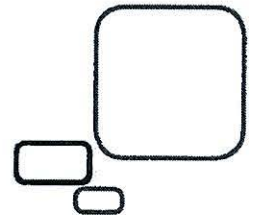
www.pebblepartnership.com

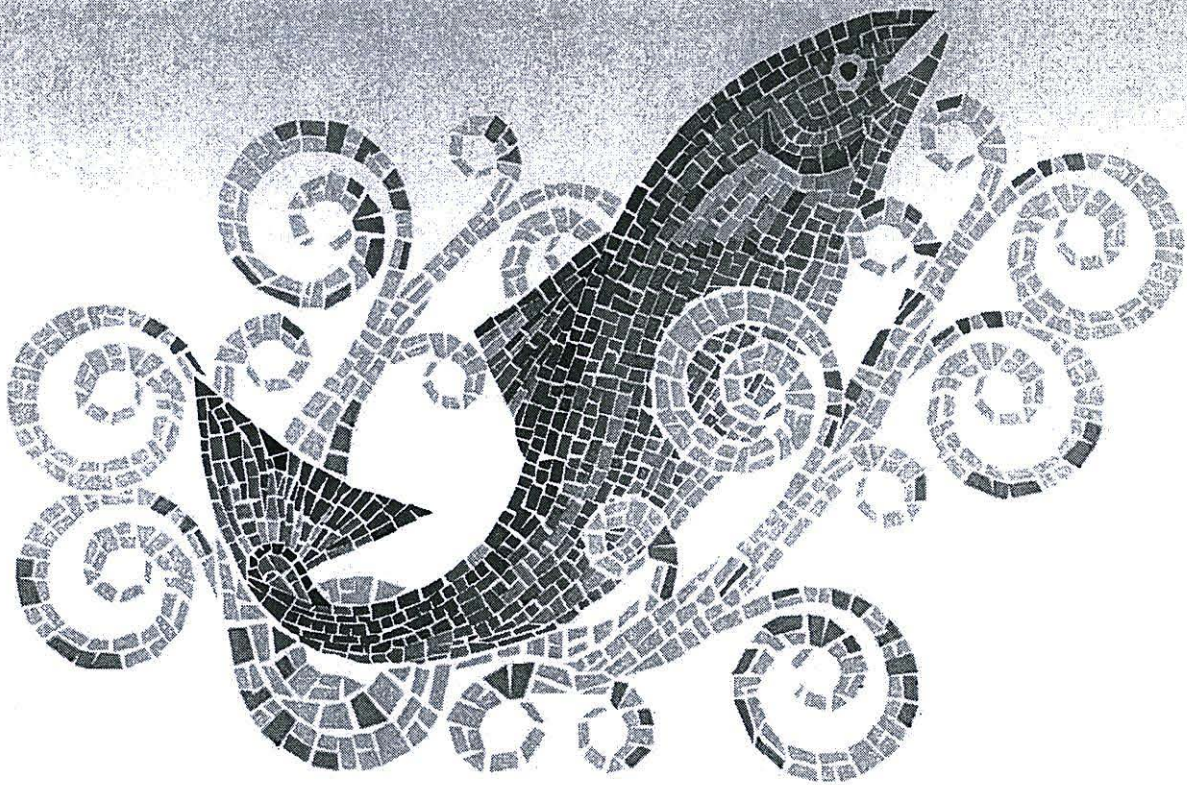
The new Pebble Partnership is more than two business organizations coming together. We are a progressive mining company committed to people, the environment and communities.

The new Pebble Partnership is about more than just mining. It is about building a better Alaska.

As it develops, the Pebble Partnership will be guided by five core principles:

- 1 Pebble must benefit people – Pebble is for all Alaskans
- 2 Pebble must co-exist with healthy fish, wildlife and other valued natural resources
- 3 Pebble must apply the world's best and most advanced science
- 4 Pebble must help build sustainable communities
- 5 At Pebble, we must listen before we act





Fish Come First

The Pebble Partnership's Five Core Principles:

- 1** Pebble must benefit people—Pebble is for all Alaskans
- 2** Pebble must coexist with healthy fish, wildlife and other valued natural resources
- 3** Pebble must apply the world's best and most advanced science
- 4** Pebble must help build sustainable communities
- 5** At Pebble, we must listen before we act

The Pebble Partnership's message to Alaskans about the world-class fisheries of Bristol Bay is clear: fish come first. We simply won't develop Pebble if it harms commercial, subsistence or sport-fishing in this remarkable region.

By working together with local communities, our project can actually enhance Bristol Bay fisheries and the contributions they make to the region's economy and culture. That's what the Bristol Bay Sustainable Fisheries Fund is all about.

But promises are not enough. It is our obligation to show Alaskans how Pebble will protect the fish, water and wildlife resources of Bristol Bay. The Pebble Partnership may be a mining company—but for all of us—fish must come first.

**"We simply will not develop a mine
that damages Alaska's fish and wildlife."**

—Cynthia Carroll, CEO of Anglo American plc, one of two progressive mining companies of The Pebble Partnership



Log on—we would like
to hear from you.
www.pebblepartnership.com