

OPENING STATEMENT
Ranking Member Eddie Bernice Johnson (D-TX)

House Committee on Science, Space, and Technology
“Examining EPA’s Predetermined Efforts to Block the Pebble Mine, Part II”
April 28, 2016

Thank you Chairman Smith, and welcome, Mr. McLerran. I appreciate your commitment to public service, and I look forward to your testimony.

We have been here twice before with hearings on EPA and the proposed Pebble Mine in Bristol Bay, Alaska. In August 2013, the Committee held a hearing on the EPA’s Bristol Bay Watershed Assessment. Last November, it held a second hearing titled, “Examining EPA’s Predetermined Efforts to Block the Pebble Mine.” That hearing included the CEO of the Pebble Partnership and two of the company’s paid consultants.

I am glad we are finally hearing from an EPA witness, Mr. Dennis McLerran. As the EPA Administrator of Region 10, that includes Oregon, Washington, Idaho and Alaska, he plays a pivotal role in helping EPA carry out its critical mission of protecting human health and the environment.

Based on the title of today’s hearing, I expect that we will hear a lot of claims of unprecedented use by EPA of its Sec. 404 authority, bias by the EPA in its watershed assessment, and EPA collusion with outside parties in initiating a 404 (c) action. My colleagues are likely to produce selective quotes and emails to support that narrative. That is certainly their right, but I think the fundamental facts are already clear.

First, the Clean Water Act gives EPA the authority to initiate a 404(c) action *before* a permit is applied for, and indeed, EPA did just that in 1988 under President Reagan. EPA’s action in the Pebble mine case was certainly not “unprecedented” or unlawful.

Second, the independent Inspector General for the EPA examined the question of potential bias or collusion in support of a predetermined outcome in its Pebble mine actions, and the IG reported in January of this year that it found “*no evidence of bias or predetermined outcome.*” That is about as clear a statement of fact as an IG can make.

Third, while some Members may attempt to cast doubt over the entire EPA watershed assessment due to the behavior of one EPA employee, Mr. Phil North, the reality is that the assessment was the result of multiple meetings with the Pebble Partnership, environmental and other stakeholder groups over many years, and extensive reviews of the relevant scientific literature.

The resulting assessment, which was peer-reviewed *twice*, had twenty co-authors, of which Mr. North was only one. As the EPA IG stated in its January 2016 report, “*we found no evidence of bias in how EPA conducted the assessment*” and “*we also found no evidence that the EPA*

predetermined the outcome of the assessment to initiate a CWA Section 404(c) process in the Bristol Bay watershed.”

Now, I don't expect the facts I have just laid out to dissuade those who have decided that uncovering an EPA conspiracy is to be the predetermined outcome of this hearing, but I think it is important that they be placed in the public record.

Mr. Chairman, commercial fishermen in Bristol Bay, environmental groups, Native Alaskan Tribes, and even jewelry companies such as Tiffany & Company were deeply concerned that a mine in Bristol Bay would destroy the splendor and unspoiled beauty of this unique watershed, and cripple the economic livelihood of thousands of its residents who rely on its world-renowned salmon fisheries. All those groups called on the EPA to take action to protect this critical environmental resource.

I hope that my Majority colleagues will realize that the use of the 404(c) process, even in Bristol Bay, Alaska, is not a political issue.

It is about protecting a unique environmental resource. In that regard, I find it ironic that EPA has been condemned in recent weeks for doing too *little* to protect the water in Flint, Michigan at the same time as they are being condemned by some on this Committee for doing too *much* to protect the water in Bristol Bay, Alaska.

Lastly, I am attaching a Minority Staff Report to my statement that takes a deeper look at how the 404(c) has been applied in the past and the tactics the Pebble Partnership has employed in an attempt to control the public message regarding their controversial mine in Bristol Bay.

I believe, as others have said, that the proposed Pebble Mine in Bristol Bay is simply the wrong mine in the wrong place. But I also believe that Section 404(c) of the Clean Water Act has been used by EPA in the right way in the right place. This law was written with places like Bristol Bay in mind. The law has not been widely used over the past four decades, nor should it be. It was designed to be used in special cases where potential development poses an extreme adverse threat to U.S. waters. This is exactly what the proposed Pebble Mine in Bristol Bay would do.

I yield back.