



March 20, 2019

Andrew Wheeler
Administrator
United States Environmental Protection Agency
Washington, D.C. 20460

Re: Request for Correction Number 19001 Pertaining to the Bristol Bay Watershed Assessment

Dear Administrator Wheeler:

On November 14, 2018, the Competitive Enterprise Institute filed a Request for Correction regarding the Environmental Protection Agency's Bristol Bay Watershed Assessment (BBWA) and consequent agency action rejecting the Pebble Mine project in Alaska. As discussed in the request, the BBWA fell well short of the standards set out in the Information Quality Act and your agency's implementing guidelines. We believe the best course of action for the agency would be to withdraw this highly flawed assessment and rescind the use of it to veto the Pebble project.

We noted in particular that the data-gathering process for the BBWA was inherently flawed in that no permit application for the Pebble Mine had yet been submitted. For this reason, EPA's analysis was based on its own guess of what a future application might look like. We also noted that important stakeholders, including the State of Alaska, complained that they had limited input into the BBWA process. Similarly, the Army Corps of Engineers, statutorily the lead agency on such permit applications, declined to participate on the grounds that without a permit application any analysis would be premature and speculative. We also detailed the selective use of inputs and expertise in developing the BBWA as well as numerous instances of bias. Overall, there were both substantive and process flaws to the BBWA that made it suspect under the Information Quality Act.

We concluded our Request for Correction by noting that the Army Corps of Engineers had begun its far more robust and comprehensive review of the Pebble Mine based on the actual permit application. Indeed, EPA's pre-emptive veto represented the first and only time the agency took such action prior to an Army Corps of Engineers' permit review. Notwithstanding EPA's efforts towards circumventing the process, the Army Corps has continued its work and has now reached the important stage of introducing a detailed Draft Environmental Impact Statement (DEIS) and opening it up to comment by all interested parties. Thus far, this process is proving itself to be everything the BBWA was not – timely, inclusive, exhaustive, and completely data-driven. As such, it comports well with the requirements of the Information Quality Act.

It should also be noted that, regardless of the status of the BBWA, EPA will have every opportunity to participate in the process now being led by the Army Corps of Engineers, beginning with agency comment on the DEIS. Furthermore, once the DEIS is finalized EPA will



have the opportunity to consider exercising its veto authority over the project. However, in sharp contrast to the agency's previous veto based on the BBWA, this decision would be a much better informed one based on a more comprehensive record and higher quality data. The continued existence of the flawed BBWA as EPA's official position on the Pebble Mine can only undercut this process.

For these reasons, we again respectfully request the agency to create a clean slate by promptly withdrawing its BBWA and veto of the Pebble Mine, and instead participate in the Army Corps process now underway. Thank you.

Respectfully Submitted,

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