

## SUMMARY and FISCAL NOTE\*

| <b>Department:</b> | <b>Dept. Contact/Phone:</b>   | <b>CBO Contact/Phone:</b> |
|--------------------|-------------------------------|---------------------------|
| Legislative        | Negheen Kamkar / 206-310-1175 |                           |

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

- 1. Legislation Title:** A RESOLUTION addressing the proposed Pebble Mine in Alaska’s Bristol Bay, and urging the Trump administration to undergo the appropriate environmental review, economic assessment, and consultation with the public to protect the wide-ranging interests in the region, including that of Seattle’s business community.
- 2. Summary and background of the Legislation:**

The Clean Water Act requires the Army Corps of Engineers (a federal agency) to identify the “least environmentally damaging practical alternative” before issuing a dredge and fill permit to companies. Pebble Limited Partnership (PLP), a mining company intends to mine in Bristol Bay, Alaska for copper and gold. Also known as Pebble Mine, this partnership is part of Northern Dynasty Minerals, LTD (Canadian Company based in Vancouver).

Bristol Bay is also home to the largest salmon fishery in the world – native communities and environmentalists are concerned about the significant impact on the fishing industry and habitat. The Corps contracted out to AECOM - a California based engineering company - to assess an environmental impact statement. AECOM has stated they need financial information to fully determine if the company is financially capable of carrying out mitigation actions Pebble Mine committed to in their recent mine plan - to reduce environment impacts. The request for financial information has been denied by Dynasty Minerals yet the Corps have decided to continue with the permitting process without the financial information requested by AECOM. The permit is on track for completion by January 2019.

Councilmember Juarez takes seriously the huge risk posed on the Bristol Bay habitat, native communities, the fishing industry, and consequentially, Seattle’s economy. She will introduce this Resolution “calling for a suspension on the federal permitting process” to allow stakeholders an opportunity to fully evaluate the environmental and economic impact of the Pebble Mine plan. The Resolution requests the Office of Intergovernmental Relations (OIR) to communicate the Resolution to the federal government, including the White House, Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Department of the Interior, Senator Patty Murray, and Senator Maria Cantwell.

Background & timeline:

- Of the 67 permits the Pebble Partnership needs to advance Pebble Mine through the permitting process, 66 are Alaska state level permits and one is federal. The

State of Alaska has never denied a mining permit. Therefore, the focus of the campaign has been to stop the one federal permit known as a 404 dredge and fill permit. The Army Corps of Engineers (Army Corps) oversees these permits through the National Environmental Policy Act (NEPA). However, the U.S. EPA has the authority, granted under the Clean Water Act, to step in front of the Army Corps and issue a 404(c), which either prohibits or restricts 404 permits if the activity will have “adverse impacts on habitat...etc.” In its history, EPA has used its 404c authority 13 times.

- b. In 2010, nine federally recognized tribes petitioned the EPA to initiate the 404(c) review process for dredge and fill permits for the Pebble Mine. Commercial fishermen, hunter and anglers and environmental NGO’s followed.
- c. After the 404(c) petitions were filed, the EPA agreed to conduct a watershed assessment of Bristol Bay. The results, through a public and peer reviewed science-based process, were unequivocal. The first assessment released in April 2012 issued concerns that large-scale open-pit mining activity like Pebble Mine would cause adverse habitat impacts on the salmon systems. The second draft assessment was released in May 2013 and included public input and peer review from the first draft, along with over one million public comments filed, and issued similar conclusions.
- d. After final assessment, in January 2014, the EPA began its process of issuing a restrictive 404(c).
- e. The Pebble Limited Partnership took the Environmental Protection Agency to court May 21, 2014 and claimed the agency illegally overstepped its bounds by attempting to block a mine before the permitting process begins. A federal judge in November 2014 issued a preliminary injunction in that case, pausing the EPA’s efforts to finalize its 404c.
- f. Pebble successfully stalls a 404(c) implementation through the 2016 elections. Donald Trump is elected, and Scott Pruitt is appointed EPA Administrator.
- g. A meeting between EPA Administrator Scott Pruitt and Tom Collier, CEO of Pebble Limited Partnership, took place on May 1, 2017. At 10:36 a.m. that same day, the EPA’s acting general counsel, Kevin Minoli, sent an email to agency staff saying the administrator had “directed” the agency to withdraw 404(c). Pebble then drops its lawsuit against the EPA.
- h. December 22, 2017 - Pebble Mine begins to file for its 404 dredge and fill permit with U.S. Army Corps, initiating scoping and draft Environmental Impact Statement information.
- i. January 26, 2018 - Scott Pruitt keeps 404(c) decision “on the table” but because of previous settlement agreement with Pebble, the EPA cannot use its 404c authority until September 2020. Keeping the 404c on the table is helpful at dissuading potential investors, but since EPA can’t use it, the Army Corps will move through its permitting process.
- j. July 2018 - Army Corps finishes its scoping of the project. Likely draft EIS issued January 2019 - 6 months after scoping is complete. Normally it takes the Army Corps 18 months to issue a draft EIS.
- k. There are public FOIA requests, as well as private, that demonstrate clear coordination between Pebble and U.S. EPA & Army Corps to issue releases that

are negative to the company after the markets open and close on certain days. In addition, the new EPA acting administrator, Andrew Wheeler, previously worked for the law firm who lobbied on behalf of Pebble. Mr. Wheeler helped set up the original meeting between Scott Pruitt and Pebble’s Tom Collier, which resulted in the EPA settling their lawsuit and allowing Pebble to move forward with permitting.

**2. CAPITAL IMPROVEMENT PROGRAM**

**a. Does this legislation create, fund, or amend a CIP Project?**  Yes  No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

| Project Name: | Project I.D.: | Project Location: | Start Date: | End Date: | Total Project Cost Through 2022: |
|---------------|---------------|-------------------|-------------|-----------|----------------------------------|
|               |               |                   |             |           |                                  |

**3. SUMMARY OF FINANCIAL IMPLICATIONS**

**a. Does this legislation amend the Adopted Budget?**  Yes  No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

| Budget program(s) affected:    | General Fund \$         |      | Other \$               |      |
|--------------------------------|-------------------------|------|------------------------|------|
|                                | 2018                    | 2019 | 2018                   | 2019 |
| Appropriation change (\$):     |                         |      |                        |      |
| Estimated revenue change (\$): | Revenue to General Fund |      | Revenue to Other Funds |      |
|                                | 2018                    | 2019 | 2018                   | 2019 |
| Positions affected:            | No. of Positions        |      | Total FTE Change       |      |
|                                | 2018                    | 2019 | 2018                   | 2019 |

**b. Does the legislation have other financial impacts to the City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

If so, describe the nature of the impacts. This could include increased operating and maintenance costs, for example.

**c. Is there financial cost or other impacts of *not* implementing the legislation?**

Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.d., 3.e., and 3.f. and answer the questions in Section 4.

**3.d. Appropriations**

**\_\_\_\_\_ This legislation adds, changes, or deletes appropriations.**

If this box is checked, please complete this section. If this box is not checked, please proceed to Revenues/Reimbursements.

| Fund Name and number | Dept | Budget Control Level Name/## | 2018 Appropriation Change | 2019 Estimated Appropriation Change |
|----------------------|------|------------------------------|---------------------------|-------------------------------------|
|                      |      |                              |                           |                                     |
| <b>TOTAL</b>         |      |                              |                           |                                     |

*\*See budget book to obtain the appropriate Budget Control Level for your department.*

This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not completely supported by revenue/reimbursements listed below, please identify the funding source (e.g. available fund balance) to cover this appropriation in the notes section. Also indicate if the legislation changes appropriations one-time, ongoing, or both.

Is this change one-time or ongoing?

Please explain any complicated scenarios – e.g. three-year funding agreement but not permanent ongoing.

Appropriations Notes:

**3.e. Revenues/Reimbursements**

**\_\_\_\_\_ This legislation adds, changes, or deletes revenues or reimbursements.**

If this box is checked, please complete this section. If this box is not checked, please proceed to Positions.

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

| Fund Name and Number | Dept | Revenue Source | 2018 Revenue | 2019 Estimated Revenue |
|----------------------|------|----------------|--------------|------------------------|
|                      |      |                |              |                        |
| <b>TOTAL</b>         |      |                |              |                        |

This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below. Do the revenue sources have match requirements? If so, what are they?

Is this change one-time or ongoing?

Please explain any complicated scenarios – e.g. three-year funding agreement but not permanent ongoing.

Revenue/Reimbursement Notes:

**3.f. Positions**

**\_\_\_\_\_ This legislation adds, changes, or deletes positions.**

If this box is checked, please complete this section. If this box is not checked, please proceed to Other Implications.

**Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:**

| Position # for Existing Positions | Position Title & Department* | Fund Name & # | Program & BCL | PT/FT | 2018 Positions | 2018 FTE | Does it sunset? (If yes, explain below in Position Notes) |
|-----------------------------------|------------------------------|---------------|---------------|-------|----------------|----------|---|
|                                   |                              |               |               |       |                |          |   |
|                                   |                              |               |               |       |                |          |   |
|                                   |                              |               |               |       |                |          |   |
| <b>TOTAL</b>                      |                              |               |               |       |                |          |   |

\* List each position separately

This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.

Position Notes:

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

If so, please list the affected department(s) and the nature of the impact (financial, operational, etc.).

The Resolution calls for OIR to correspond with appropriate federal counterparts to suspend the Pebble Mine permitting process.

**b. Is a public hearing required for this legislation?**

If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned/required in the future?

No

**c. Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

If yes, please describe the measures taken to comply with RCW 64.06.080.

No

**d. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.

No

**e. Does this legislation affect a piece of property?**

If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

No

**f. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**

If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities.

This legislation opens the door for stakeholders (native communities) whom will be impacted by the permitting process to have a seat at the table to relay concerns and understand the adverse impacts on Bristol Bay habitat and salmon systems.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

This answer should highlight measurable outputs and outcomes.

**List attachments/exhibits below:**

N/A