

Recommending “do pass”: Millett, Buch, Edgmon.

No recommendation: Kawasaki, Keller, Munoz.



HEARING LOOKS AT PEBBLE RISK, OVERSIGHT GAPS

Environmental risk from the Pebble copper and gold prospect and the adequacy of the current state system responsible for mine permitting were reviewed by the project developers, **Dept. of Natural Resources** and other stakeholders at a joint hearing of the Senate Resources and **House Fisheries Committees**, March 19.

The session was intended to give lawmakers “a preliminary sense” of what they may wish to do in response to a formal **Board of Fisheries** request, said **Sen. Bill Wielechowski** (D-Anch.), chairman of Senate Resources, at the start of the hearing.

The Fish Board asked lawmakers to conduct a “comprehensive evaluation of the permitting protections and standards, including regulations and statutes, which provide safeguards against environmental damage.”

The hearing could breath new life into **HCR 15**, a resolution directing the **Legislative Council** to contract with the **National Academy of Science** for an “assessment of the known and probable cumulative environmental and socioeconomic consequences of large-scale mineral extraction in the Bristol Bay area watershed ... and an assessment of critical gaps in existing knowledge necessary to adequately understand, predict, and manage the environmental and socioeconomic consequences of mineral extraction in the Bristol Bay area watershed.”

The project would take about a year and cost about \$1 million, according to **Rep. Alan Austerman** (R-Kodiak), sponsor of the resolution. It has been stalled in the House Fish Committee since its introduction last April. Time ran out before the resolution could be heard at a February 18 meeting and a March 9 hearing was cancelled because Austerman was weathered out of Juneau.

Austerman wasn't confident last week's hearing marshaled the support needed to fund his resolution. “I'm not sure until I have an opportunity to go down and talk to individual legislators who sat through the meeting,” he said after sitting through the meeting.

Neither Wielechowski nor Fish Committee Chairman **Bryce Edgmon** (D-Dillingham) confirmed that they would seek funding for a study, but Austerman is the only one of the three who sits on a finance committee.

“If we can gain the support we'll obviously going to need to get the funds necessary for a study then we'll forward the request,” Edgmon said. He said information presented at the hearing made it clear that research is needed.

“I saw enough questions about the process that couldn't be answered that tell me that we need to go and look at the process itself and determine whether we should try to answer those questions and to determine whether the strengths we heard from the department and the developers of the project are actually strengths,” Edgmon said.

Dr. David Chambers, president of the **Center for Science in Public Participation**, said Alaska's mine regulatory process is fundamentally flawed and the mining industry's record for compliance with permit requirements is poor.

“If you look at how well we did at predicting what the water quality impacts would be from a mine like this both in terms of whether there would be metals generated and whether we could control them with mitigation measures like tailings dams, 75 percent of the cases were wrong. That's not a very good batting average,” Chambers said acid generating mines permitting since the mid-1970s when environmental impact statements were first required.

Ed Fogels, director of DNR's **Office of Project Management & Permitting**, said state regulations and oversight procedures are sufficient if properly funded and staffed. “We have a good mine-permitting process right now ... We believe we've been doing a good job in Alaska to date,” Fogels said.

In the context of a project the size of Pebble, Edgmon said, “There's a lot of concern that good enough isn't good enough.”

Chambers said control of the mine-permitting process by DNR, which is constitutionally mandated to responsibly develop all state resources, “is a fundamental problem of conflict of interest” between an agency and an industry that already enjoys special treatment. Chambers noted that DNR is exempt from preparing the formal best interest finding for mines that must be completed for other industrial projects.

He added that state dam safety monitoring should, and could easily, be improved. Preliminary proposals for a Pebble mine include a tailings pond dam 4.3 miles long and 700-foot high.

Chambers underscored the massive size of the project with dramatic images and statistics. The five major mines operating or permitted in the state (Greens Creek, Kensington, Ft. Knox, Red Dog and Pogo, contain a total of 569 million tons of recoverable ore. The Pebble prospect has 10.7 billion tons, according to data released by the Pebble Partnership, a partnership of **Northern Dynasty Minerals Ltd.**, of Vancouver, B.C. and London-based **Anglo American PLC**.

John Shively, CEO of the Pebble Partnership said the prospect holds enough ore to operate for a century but its application would likely seek permitting for operations lasting “more in the range of 25 to 40 years.” He added that the

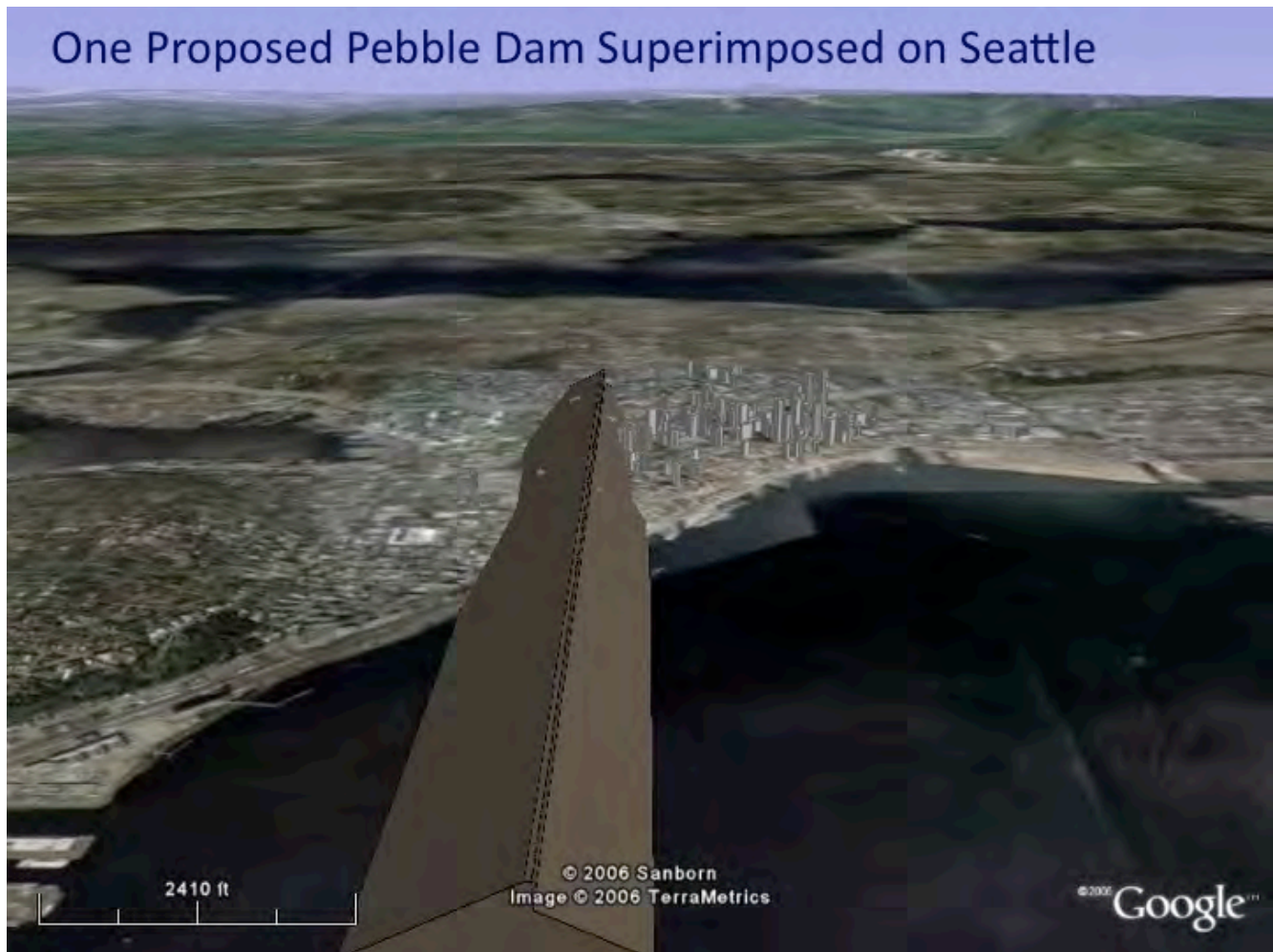


Illustration created by the Center for Science in Public Participation to illustrate the scale of the tailings pond dam that may be required for a Pebble gold mine. (Reprinted courtesy of Dr. David Chambers/ Center for Science in Public Participation.)

formal application would not be filed before 2011, or later.

Former senator **Rick Halford**, who owns a sport fishing lodge on Bristol Bay, said an initial permit might focus only a portion of the ore body but scoffed at the suggestion that the operators would not try to remove the entire lode.

The invited participants spoke consecutively so all could not comment on each other's statements. All parties acknowledged that the greatest risk to the Bristol Bay sockeye fishery and the regional environment around the Pebble prospect is water pollution from acid mine drainage.

Fogels said federal permits would be "dominant" on issues of environmental protection.

He and Shively both acknowledged that the Pebble prospect is in a class by itself but they suggested a study on its risks would become a requirement for future mineral development. Conversely, Fogels also said, "I hope whatever the study is, it helps us do our work not just in Pebble but other parts of the state as well."

Fogels said DNR could not begin assessing potential impacts of a Pebble mine until the developers proposed a specific project, but also asked if a legislatively mandated study would halt or delay consideration of a permit application.

Chambers, who spoke after Fogels, said the state should press the Pebble Partnership to release the data it has been collecting for years instead of providing a massive amount of information only with the formal permit application. He said that current law does not allow DNR to demand preliminary information.

Despite huge development costs and an ore body that could be mined continually for a century, Shively said the Pebble Partnership's application would likely seek permitting for operations lasting "more in the range of 25 to 40 years." He added that the formal application would not be filed before 2011, or later or never.

Shively also said, "The bigger permitting issues are mostly federal" and tried economic scare tactics to deflect the discussion from the Pebble prospect. He said it is "very likely" the **Red Dog** mine will shutdown this fall at a cost of 500 jobs and noted that a permit requested by **Conoco Phillips** for North Slope oil exploration was rejected "because two

federal agencies want to make a park out of NPRA,” the **National Petroleum Reserve Alaska**.

“There are things going on in this economy that I think do not bode well for the future,” Shively said. Noting that he is a former DNR commissioner, Shively said the state has a strong mine permitting process that is “looked at regularly by people like the **Fraser Institute**.”

Based in **Calgary**, the Fraser Institute describes itself as “an independent non-partisan research and educational organization.” In previous research it ranked Alaska as one of the worst places in the world for mine development because of overregulation and compared the state unfavorably with **Russia’s** mine regulation.

Shively did not challenge Chambers’ assertion that a Pebble mine tailings pond would no be lined to prevent the escape of toxic chemicals into the water system. Austerman said he had assumed the pond would be. “To hear the comment tonight that it wouldn’t be lined, and that Mr. Shively didn’t counter it surprised me,” Austerman said.

Shively also declined to take any responsibility for a 2,500-gallon diesel oil spill less than ten yards from the Illiamna River when a fuel tank being hauled by a Pebble Partnership contractor fell off a truck.

“It was not our fuel that got spilled,” Shively said, adding that his company requires insurance coverage from subcontractors. “We have standards they must meet. Whether we do it or not, we try to make sure it was done safely.”

Shively said he took his current job to bring an Alaskan perspective to the foreign-owned project. “Everybody realizes this is about the fish. If we cannot show the fish will be protected this project is going nowhere,” he said.

Halford, who spoke last, said an initial permit might focus only a portion of the ore body but rejected the suggestion that the operators would not try to remove the entire lode. Noting that he supported the mining industry through a 20-year legislative career, Halford said he became a spokesman for opponents of the project at the request of residents of the region.

Halford also said the low-grade ore at Pebble “hasn’t got the financial capacity to possibly carry some of the financial things that are possible in that area, referring to development and potentially infinite environmental protection costs after the mine is depleted.

Halford added that the state often does “a lousy job in the ownership side in protecting our resource values.” He said the state should commission its own study rather than “wait for somebody to bring you science that they bought and paid for.”

Mary McDowell, vice president of the **Pacific Seafood Processors Association**, said the hearing “did a good job of explaining the magnitude of the project and how different it is from other projects.” Members of the PSPA, including **Peter Pan Seafoods** and other major Alaskan processors, are already hearing customers express fear that even the discussion of permitting for the Pebble project could harm Alaskan salmon marketing efforts.

“The serious concern is risk to fish. In the meantime the perception of risk to purity carries its own risk. What we have heard is that some customers have heard about the prospect of the mine and they’re already worried about that. Right now even having the Pebble under discussion is making customers, especially in Europe, nervous is my understanding,” McDowell said.

Bruce Wallace, a seiner on the **Alaska Seafood Marketing Institute** board, said the potential of the project “changed ASMI tact a bit because we’re dealing with perceptions and normally we would deal with actual factual impacts ... Halford had it pegged for those things and our purposes that are currently a problem.”



OTHER BILLS & NEWS

HB 36

SHIPPERS INDEMNIFICATION BILL TO HOUSE FLOOR

Legislation that would prohibit contracts that force motor carriers to indemnify shippers against claims resulting from the shipper’s negligence or intentional acts, and vice versa, now awaiting a House floor vote. HB 366 was reported out of the House Judiciary Committee, March 19, after adoption of an amendment that exempts an organization of major ocean-going common carriers from the prohibition.

The Ocean Carrier Equipment Management Association, an organization of US and foreign-flagged carriers, requested the amendment. In a letter to Rep. Jay Ramras (R-Fairbanks), chairman of the Judiciary Committee, OCEMA explained that most intermodal cargo interchanges are covered by the Uniform Intermodal Interchange and Facilities Access Agreement (UIIA), including ocean, rail and motor carriers.

Passage of HB 366 without the amendment risks voiding the UIIA “which would severely disrupt transportation arrangements to and from Alaska businesses by jeopardizing insurance coverage,” wrote Jeffery Lawrence, executive director of OCEMA, in a March 15 letter to Ramras.

The Alaska Truckers Association, Lynden and other Alaskan shippers and carriers who supported the original bill also endorsed the amendment.