

The U.S. Fish and Wildlife Service (Service) is coordinating with the U.S. Army Corps of Engineers (Corps) and three primary aspects of the environmental review for the proposed Pebble Mine Project. These three concurrent reviews are being conducted related to the 1) National Environmental Policy Act (NEPA), 2) the Endangered Species Act (ESA), and 3) section 404 of the Clean Water Act (404 or CWA).

- 1) The Service is a cooperating agency (CA) pursuant to NEPA, assisting the Corps in their development of an Environmental Impact Statement (EIS). We were invited by the Corps to participate as a CA based on our special expertise related to fish and wildlife. In our role as a CA, the Service has been participating in regularly meetings with the Corps and their third-party NEPA consultant, AECOM. We have review administrative drafts of the EIS and provided comments during this stage of environmental review that preceded the public review and comment period. We also provided formal comments to the Corps during the public comment period on the draft EIS (DEIS). In our comments on the DEIS, the Service highlighted opportunities for the Corps and/or the project proponent (Pebble Limited Partnership, or PLP) to gather additional information, conduct additional analyses, or bolster existing analysis. We highlighted portions of the DEIS that we found to be inadequately developed to allow us to fully evaluate the potential effects of the project. In particular, we requested the Corps conduct additional analysis related to the risk of spills (concentrate, fuels, and other potential environmental contaminants). We also requested additional information and analyses related to potential impacts to species protected under the ESA, the Marine Mammal Protection Act, the Bald and Golden Eagle Protection Act, and the Migratory Birds Treaty Act. We have offered our subject matter expertise in developing robust avoidance, minimization, and mitigation measures to avoid or reduce impacts to our trust resources. We continue to engage the Corps in the NEPA review process; we are currently participating in multiple technical meetings to address agency and public comments and to assist the Corps in revised the EIS.
- 2) The Service and the Corps have engaged in early coordination related to the Corps' obligations under the ESA. To date, this has been limited to information and coordination meetings to help inform the Corps' development of their ESA determinations on potential effects to listed species and designated critical habitat. The Corps has not yet made their determinations, and has not yet requested consultation (formal or informal) pursuant to the ESA. Such consultation will be completed prior to the Corps Record of Decision on their permit issuance.
- 3) Pursuant to section 404(q) of the CWA, the Service has provided comments to the Corps on their Public Notice (PN) for their proposed issuance of a 404/CWA permit. On July 1, the Service informed the Corps that we were concerned that the project "may result in substantial and unacceptable impacts to aquatic resources of national importance." This notification was pursuant to Section IV.3(a) of our Memorandum of Agreement between the Department of the Interior and the Department of the Army (MOA). Only July 25, we followed this "3a" letter with a second letter, pursuant to Section IV.3(b) of the MOA, notifying the Corps District Engineer that the project "will have a substantial and unacceptable impact on aquatic resources of national importance." Absent additional analyses and development of additional measures to avoid and mitigate for project impacts, we have recommended that the Corps not issue the proposed permit. Following these two formal notification procedures, we will engage with the Corps to assist in

developing measures to avoid, minimize, and mitigate for the potential impacts of the project. We believe that implementation of a robust set of such measures could allow the project to proceed without resulting in unacceptable impacts to aquatic resources.