



# CEI Challenges Federal Rejection of Alaska's Pebble Mine

Ben Lieberman • November 15, 2018



Most job-creating projects don't require government subsidies—the only thing private sector builders need is less federal red tape getting in their way. A good case in point is the Pebble Mine in Alaska, currently being held up by the Environmental Protection Agency. That is why the Competitive Enterprise Institute is filing a [Petition for Correction](#) under the Information Quality Act to help clear away EPA's unjustified rejection of this project.

The Pebble Mine has the potential to become America's largest new mine in decades, producing copper, molybdenum, and gold, and more importantly producing potentially thousands of jobs in the economically-depressed Bristol Bay region where it would be located.

The good news is that the [federal permitting process is underway](#), pursuant to the National Environmental Policy Act (NEPA). Under that process, the Army Corps of Engineers, state of Alaska, and all other interested parties will have a chance to weigh the economic benefits of the project against the environmental risks, and find ways to ensure that those risks are minimized before the project is approved.

The bad news is that the Obama-era EPA jumped the gun in 2014 and blocked the mine before the review process had begun. In an unprecedented action, the EPA rejected the mine permit application before the mining company had even submitted it. As a result, the EPA's analysis, the [Bristol Bay Watershed Assessment](#), was woefully deficient and thus fails the agency's obligations under the Information Quality Act.

What makes this unprecedented action all the more problematic is that, because the EPA had no specific mine application to review, it broadly revoked virtually any mine in the Bristol Bay region, an area the size of Ohio. And it did so without input from the state of Alaska itself, which was highly critical of EPA's conduct. It should be noted that in the Alaska land settlements of the 1980s, the state of Alaska chose the Pebble area and

other federal parcels in the Bristol Bay Watershed because of their high mineral potential. If the EPA's action is allowed to stand, it would become a terrible precedent by which future administrations could block resource development in Alaska and other states with the stroke of a pen.

The Information Quality Act and the EPA's implementing guidelines require, among other things, that disseminated information should be "accurate, reliable, and unbiased." Here, however, the agency's analysis was zero for three. Because the EPA had no specific mine application to review, it simply made up several hypothetical mine scenarios and rejected them all. Needless to say, these EPA-generated mines were tailor made to fail the applicable requirements. But in so doing, the agency's wild guesses as to what the actual mine application would entail fall well short of being "accurate, reliable, and unbiased" under the Information Quality Act.

For example, the EPA had no idea what mitigation measures the mine developers might undertake to compensate for any environmental risks. Normally, such measures would be included in the initial permit application and be refined during the NEPA review process. But because the agency was preempting the normal process, it simply assumed in its assessment that any such mitigation measures would be inadequate. Such guesswork clearly violates the Information Quality Act.

For these and other reasons, CEI is petitioning the agency to either substantially correct or completely withdraw its assessment of the mine, and is instead requesting that the agency participate in the far more rigorous and inclusive NEPA process now underway. Doing so would also advance the Trump administration's agenda of removing unnecessary regulatory and permitting roadblocks that are holding back many domestic projects, and it would give the Pebble Mine a fair shot at obtaining federal approval.