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To: [Huber, Brett W \(GOV sponsored\)](#)
Subject: John Hickey in VP's Office & Background/Talking Points
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Hi Brett. As I mentioned in previous conversations, John Hickey in the VP's office is expecting your call. His direct line at this desk is 202.394.1659.

BACKGROUND

- In order to build the Pebble Mine in southwest Alaska, the Pebble Partnership needs a permit under Section 404 of the Clean Water Act (a so-called "dredge and fill" permit). The U.S. Army Corps of Engineers is the permitting agency for that permit.
- The EPA has a special role under the Clean Water Act. If the Corps decides to grant the permit to Pebble, the EPA has the authority under the Clean Water Act to "veto" the permit if they find the project will create "unacceptable adverse impacts" on aquatic resources.
- In 2014, EPA issued a proposed veto (called the "Proposed Determination") regarding the Pebble Mine, even though the Pebble Partnership had not, at that time, put forward a plan for the mine. A "preemptive veto" like the one proposed for Pebble by the EPA had never before been done in the history of the Clean Water Act.
- Because the Pebble Partnership had not submitted a mine plan, EPA concocted a watershed assessment on the Pebble Mine that used hypothetical mine scenarios – scenarios developed by EPA, that were designed to fail environmental scrutiny.
- Pebble sued the EPA in federal court in Alaska, and won a preliminary injunction that stopped EPA from moving the "Proposed Determination" forward.
- When the Trump Administration came into office, Pebble settled its lawsuit against the EPA. The settlement had two major provisions:
 - It allowed Pebble to submit its permit application to the Corps of Engineers and to have that permit considered by the Corps until May 2021, or until the Corps had finished an Environmental Impact Statement on the mine. Pebble submitted its permit application in December 2017.
 - The settlement agreement also committed that the EPA would begin the process of withdrawing the "Proposed Determination", so that the permitting process could move forward without the unfair preemptive veto hanging over the head of the Pebble Partnership.
- The Agency did propose to withdraw the veto, but after notice and comment, EPA Administrator Scott Pruitt decided to suspend his efforts to withdraw the veto.
- Administrator Pruitt's decision essentially endorses an Obama era regulatory overreach, leaving the Trump/Pence administration agreeing with Obama to unfairly cancel a major mining project without due process.

TALKING POINTS FOR CONVERSATIONS WITH VICE PRESIDENT'S OFFICE

- The Pebble Mine is a controversial issue in Alaska.
- Because the Pebble mine is on State-of-Alaska-owned land, the veto impacts important issues of the State's right to develop its own natural resources. This is an issue that Alaskan's feel VERY strongly about.
- The mine, if built, will create some 2,000 jobs, paying in the neighborhood of \$100,000/year. This, in an area where there are really no other opportunities for economic development.
- Withdrawing the Pebble "Proposed Determination" will be helpful to me in taking the possibility that the mine will be killed without due process off the table as an election issue.
- The EPA's authority to stop this project is in no way impacted even if they withdraw the current preemptive veto. EPA can still veto the project at the end of the process if the Corps decides to grant the permit.
- Further, this veto runs directly counter to President Trump's proposal in his infrastructure initiative to completely remove EPA's veto authority from the Clean Water Act.
- It also runs counter to former Administrator Scott Pruitt's directive to the Agency to develop a new rule that would take away EPA's authority to use preemptive vetoes of the sort they are

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- trying to use against Pebble.
- It makes no sense to allow this veto to move forward in the face of these two Administration policy initiatives.