

## ALASKA DEPARTMENT OF NATURAL RESOURCES

### Water Resources Section

TO: Mike Walton, NRM II  
FROM: Jenny Wynne, NRS II

DATE: August 13, 2018  
FILE NUMBER: TWUA F2018-059  
A6118 - Pebble Project – Pebble Limited Partnership

The subject Temporary Water Use Authorization case file has been reviewed for accuracy and conformance with statutes and regulations. The following comments, recommendations, or corrections are presented.

#### **Check for duplicate water use authorization:**

There are no existing water rights or active temporary water use authorizations for the water sources requested under the TWUA F2018-059 application.

#### **Agency Notice:**

- Agency notice dated: June 12, 2018. Deadline for comments: June 27, 2018.
- Courtesy notice emailed June 13, 2018 to Trustees for Alaska and to Trout Unlimited.
- ADF&G Habitat: No Comment.
- Alaska Department of Environmental Conservation: No Comment.
- DNR-Mining: MLUP 6118 Issued 4/19/2018; expires 12/31/2018.

#### **Project Description:**

Water will be withdrawn (via airlift method) in support of hydrogeological site investigation activities associated with the APMA A6118 Pebble Project. Applicant proposes to withdraw water from three drilled wells (1 existing well and 2 planned wells).

#### **Daily Duration and Months of Use:**

Water use activities will be conducted up to 24 hours per day (or as otherwise limited by the maximum authorized acre-feet per day) through October 31st, 2018.

#### **Proposed use of water being evaluated:**

- Aquifer Testing Activities: A maximum withdrawal of 0.432 acre-feet per day per source well at an approximate maximum withdrawal rate of 100 gallons per minute for up to 24 hours per day, subject to a seasonal limit of 3.888 acre-feet of water from all three drilled wells combined. Water withdrawal will occur from only one source well at a time.

#### **Effect on fish and game:**

No effect on fish and game is anticipated for this project. The requested water sources are one existing 159-foot deep well and two planned wells, each planned well to be drilled approximately 200-feet deep. When a fish habitat permit is required for a project, any ADF&G Habitat approval of the proposed use of water is subject to the project description and any listed stipulation(s) on said fish habitat permit. Any known issued or intended to be issued Fish Habitat Permits (in connection with the requested sources) are listed above. When ADF&G Habitat issues a fish habitat permit for a proposed use of water, it represents that ADF&G Habitat is satisfied that the

proposed water removal equipment to be used and the use of water will be protective of fish and, if applicable, still leave enough water flow and/or water level in the requested water source to provide for fish, fish habitat, and/or fish passage.

The conditions on an issued TWUA authorization are designed to minimize near-term, long-term and cumulative impacts to the environment. Pursuant to AS 46.15.155(d), both ADF&G-Habitat Division and Alaska Department of Environmental Conservation (ADEC) were notified about this application. If either ADF&G or ADEC had concerns about near-term, long-term, or cumulative impacts to the environment attributable to the withdrawal, transport, use or discharge of the withdrawn water, they would have commented with those concerns. This case file does not contain any actual proof of likely to be harmful near-term or long-term impacts or documented harmful cumulative impacts to the environment attributable to the requested or previous water withdrawal activities associated with this project.

### **Prior Appropriators and Nearby Temporary Water Use:**

A land information search for Case Category 8 (water) within Sections 21 and 22, Township 3 South, Range 35 West, Seward Meridian and Section 11, Township 3 South, Range 36 West, Seward Meridian, revealed no active sub-surface temporary water use authorization(s); no issued out-of-stream use water right permits or certificates; and no issued certificates of reservation of water for the water sources requested for this 2018 hydrogeological site investigation activity.

In the searched sections, there is one water right application from Pebble East Claims Corp. for the Pebble Project, which application is in postponed/suspended status: LAS 25875 for subsurface withdrawals in the Upper Talarik Creek drainage. There are also applications for reservation of water in application status: LAS 27174 (N.F. Koktuli River, Reach 1), LAS 27175 (N.F. Koktuli River, Reach 2), and LAS 27176 (N.F. Koktuli River, Reach 3) from Curyong Tribal Council. The water requested under an application for reservation of water is not a vested water right, and the water requested to be reserved is not withdrawn from appropriation until a certificate of reservation is issued (See AS 46.15.145 (d)). As the TWUA F2018-059 application is for sub-surface sources and the water to be withdrawn (at an approximate rate of 100 gpm, which is equivalent to just 0.22 cubic feet per second) from the subject wells is to be discharged to the ground surface a distance away from the tested well, potential impact to nearby surface sources is considered de minimus.

Therefore, it has been determined that issuing a temporary water use authorization for the TWUA F2018-059 application will not unduly impact any prior appropriators (including instream flow reservations) or applications for water rights or instream flow/lake level reservations in the area that require further consideration on account of such use.

No water right or priority is established by a temporary water use authorization. The Department may suspend operations authorized under an issued temporary water use authorization whenever such suspension shall in its judgment be necessary to protect the public interest or that of a prior appropriator. Authorization as to one or more of the requested sources could be amended, modified or revoked as necessary (without revoking the entire temporary water use authorization that the source(s) were authorized under) to supply water to lawful appropriators of record or to protect the public interest, or the entire temporary water use authorization could be revoked.

### **Proposed means of construction:**

Adequate. A site plan was included with the application packet.

**Effect upon access to navigable or public water:**

No foreseeable effects upon access to navigable or public water ways.

It is interpreted that the proposed use of water is in the public interest. This file contains no evidence of a likelihood of harm to the public interest. Furthermore, it is inferred that the applicant has the intent and ability to complete the hydrogeological site investigation.

**Recommendation: Issue Temporary Water Use Authorization.**

Concurrence                      [ ] Other: \_\_\_\_\_

Michael Walton  
Signature

August 15, 2018  
Date

Michael Walton, Acting Chief of the Water Resources Section, DML&W, ADNR  
Name/Title

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; faxed to 907-269-8918, or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31<sup>st</sup> calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(6), which has been set at \$200 under the provisions of 11 AAC 05.160 (a) and (b).