

The “Call to Protect Bristol Bay” and the Jay and Bella Hammond National Fisheries Area Proposal

What is the “Call to Protect Bristol Bay”?

In early December 2020, Bristol Bay organizations - United Tribes of Bristol Bay, Bristol Bay Native Association, Bristol Bay Economic Development Corporation - proposed a roadmap that outlines their regional vision for true protections providing long-term certainty for the region’s robust natural resources.

The Call to Protect Bristol Bay contains two important steps to realize those protections:

1. Urging EPA to use its authority under the Clean Water Act § 404(c) to withdraw the threat of large-scale mining—like the Pebble Mine—in the Bristol Bay watershed.
2. Calling on Congress to establish the Jay and Bella Hammond National Fisheries Area that will provide federal protection of the Bristol Bay watershed forever.

Why is this action necessary after the Pebble mine permit was denied by the Army Corps?

Though an incredible milestone, the Army Corps’ denial of Pebble’s mining permit leaves the door open for a future mining company to return. Leaders from Bristol Bay are calling for long-term protection that would provide certainty to those who depend on the region’s natural resources. Bristol Bay Tribal and business leaders called for permanent protection for Bristol Bay. Unless and until Bristol Bay is permanently protected from any large-scale mining the people of Bristol Bay won’t rest.

“There is an urgent threat to Bristol Bay that must be met with urgent action,” says BBNA President/CEO Ralph Andersen. “Although we are relieved that Pebble’s permit application has been denied, our people must be assured that no matter the political winds, our way of life is protected from the threat of mining in our region. This commitment ensures that those who depend on Bristol Bay can continue building a sustainable future free from this threat.”

Why establish a National Fisheries Area?

The Pebble deposit is on state land, however, the Clean Water Act establishes federal jurisdiction to protect waters that run through state land from the disposal of dredge and fill materials (mining waste) into those federal waters. Using Clean Water Act jurisdiction attached to the waters in Bristol Bay, Congress can establish protections for Bristol Bay. This unique situation calls for a unique solution.

What is the intent of the Fisheries Area?

“The establishment of a National Fisheries Area in Bristol Bay would provide stability for the Tribal communities of the region as well as the commercial fishing industry that relies on these waters. This should be a common sense piece of legislation that should have the support of anyone who claims to represent Alaskans in Washington,” said BBEDC Chairman Robin Samuelsen.

“True protections for Bristol Bay must stop the immediate threat of mining, ensure that no future proposal will hurtle through the federal permitting process unchecked, and provide a lasting

guarantee to future generations that our lands and waters will not become a mining district,” said UTBB Board President Robert Heyano. “Any protections that do not meet this standard are unacceptable.”

What is the origin of this proposal?

The proposal is based on the Bristol Bay Regional Vision and drafted by United Tribes of Bristol Bay. It was vetted by attorneys who specialize in tribal and natural resource law to ensure that the approach is legally defensible.

What exactly does the establishment of the Jay and Bella Hammond National Fisheries Area do?

The legislative proposal creates restrictions on hard rock mining to protect rivers, streams, lakes and wetlands that support salmon habitat in the Bristol Bay watershed.

How does it relate to the Clean Water Act § 404(c) veto?

The restrictions are similar to the Clean Water Act restrictions proposed in 2014 by EPA in the 404(c) proposed determination. The proposal was structured to include these specific restrictions because they were previously supported in 2014 by Bristol Bay entities, fishing groups, conservation groups, businesses and communities throughout Bristol Bay.

What is included, restricted, and allowed in the Jay and Bella Hammond National Fisheries Area?

The proposed legislation protects rivers, streams, lakes and wetlands that support salmon habitat in the entire Bristol Bay watershed. The proposal ONLY restricts impacts related to hard rock mining. The proposal DOES NOT restrict subsistence activities or activities related to commercial or sport fishing. It also DOES NOT restrict use of the waterways for transportation or other small scale uses of the watershed including gravel excavation or small scale placer mining.

How will this proposal be enacted? What is next?

This legislation could be a stand-alone bill or it could be incorporated into a larger legislative package. (TBD)