

## **Secretary William S. Cohen Releases The Report Of His Independent Review Concerning The United States Environmental Protection Agency's Actions In Connection With Its Evaluation Of Potential Mining In Alaska's Bristol Bay Watershed**

WASHINGTON, D.C., October 6, 2015 -- Former Defense Secretary and Senator William S. Cohen today released the report of his independent review of the U.S. Environmental Protection Agency's decision-making process regarding potential mining in southwest Alaska's Bristol Bay watershed. In his review, Secretary Cohen concluded EPA's actions were not fair to all stakeholders.

Secretary Cohen's review was commissioned by the Pebble Partnership, which holds mineral claims to lands owned by the State of Alaska in the Bristol Bay watershed. "I undertook the review on conditions of independence. I would follow the facts wherever they may lead, and any conclusions would be mine alone. The Pebble Partnership had no rights to edit or censor my views," said Cohen.

"The decision about whether to build a mine in this area, as well as the process used to make such a decision, is very important to Alaska's environment, economy, people, fish and wildlife. It requires regulatory authority to be exercised in the fairest way possible. After a very thorough review, I do not believe EPA used the fairest and most appropriate process," said Secretary Cohen.

The review focused solely on evaluating the process by which EPA assessed, and proposed restrictions to reduce, the environmental risks associated with potential mining in the Bristol Bay watershed. The review did not investigate whether or not a mine should be built, nor does it comment on the legality of EPA's actions.

Secretary Cohen and his team reviewed thousands of documents from EPA, other federal agencies, the State of Alaska, Congressional committees, the Pebble Partnership, and other sources. Secretary Cohen and his team also interviewed over 60 people, including three former EPA administrators and several former senior EPA officials. The people interviewed represented all points of view on EPA's actions. EPA declined Secretary Cohen's request to make current personnel available for interviews.

At the heart of Secretary Cohen's review was the question of the appropriate process to make a determination to permit, limit, or ban large-scale mine development in the Bristol Bay watershed. EPA's actions here departed from the normal permit evaluation process.

The normal method for determining whether a proposed mine will be allowed to proceed is through a permit application process led by the U.S. Army Corps of Engineers in compliance with guidelines co-developed with EPA, the National Environment Policy Act (NEPA), and regulations developed by the Council on Environmental Quality. The NEPA process has been used for decades and is widely endorsed for its fairness by environmental groups, such as the Natural Resources Defense Council (NRDC).

Instead of using the NEPA process, EPA invoked Section 404(c) of the Clean Water Act before a permit application was filed to propose limits on development of a mine in the Bristol Bay watershed. This was the first time in the Clean Water Act's 43-year history that EPA exercised its authority without relying on a permit application. EPA based its regulatory action on its assessment of the potential ecological effects of hypothetical mine scenarios it created. EPA stated that "it has reason to believe" that a mine constructed according to its hypotheticals would have an unacceptable effect on the environment.

"The fairest and most appropriate process to evaluate possible development in the Pebble Deposit Area would use the established NEPA process to assess an actual mine permit application, rather than making an assessment based upon these hypothetical mining scenarios as the justification for imposing potentially prohibitive restrictions on future mines," said Cohen. "I can find no valid reason why the NEPA process was not used," he added.

The statements and actions of EPA personnel observed during this review also raise serious concerns as to whether EPA may have orchestrated the ecological assessment process to reach a pre-determined result, had inappropriately close relationships with anti-mine advocates, and was not candid about its decision-making process. “Based on the concerns raised by these and other issues during the course of my review, I believe a closer look by those with subpoena power is fully warranted. Thus, I urge the Inspector General and Congress to continue to explore these questions which might further illuminate EPA’s motives and better determine whether EPA has met its core obligations of government service and accountability,” said Secretary Cohen.

Secretary Cohen was assisted by his firm, The Cohen Group, and by the law firm, DLA Piper. The full report can be seen [here](#) and the Executive Summary can be seen [here](#). Secretary Cohen served as a member of the House and Senate from Maine for 24 years and as U.S. Secretary of Defense for four years.

#### **About The Cohen Group:**

The Cohen Group is comprised of more than 60 professionals with deep experience working in senior-level positions in Congress, the White House, the State Department, the Defense Department, the Department of Homeland Security, the Transportation Department, the intelligence community, other federal agencies, and in European and Asian governments, international organizations, public policy institutes, and the private sector.

With offices in Washington, London, Beijing, Tianjin, and New Delhi, The Cohen Group assists clients to identify and pursue opportunities, and address challenges, in markets around the world in virtually every business sector. This includes both developing strategic business plans to help clients achieve their objectives and actively participating with clients to execute those plans. For more information, please visit [www.cohengroup.net](http://www.cohengroup.net).

#### **About DLA Piper LLP:**

DLA Piper LLP is a global law firm with lawyers located in more than 30 countries throughout the Americas, Asia Pacific, Europe, and the Middle East, positioning the firm to help companies with their legal needs anywhere in the world. For more information, please visit [www.dlapiper.com](http://www.dlapiper.com).

CONTACT: Henry Murry, 202-863-7245, [pressrelease@cohengroup.net](mailto:pressrelease@cohengroup.net)