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POTOMAC WATCH

## The Greens' Back Door at the EPA

Environmentalists coordinated with the feds to veto a mine project in Alaska.



EPA Administrator Gina McCarthy at a public meeting in Alaska in 2013. *PHOTO: BILL ROTH/ANCHORAGE DAILY NEWS/MCT/GETTY IMAGES*



By

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When Tom Collier thinks about his ongoing battle with the EPA, he recalls Rita Lavelle. Ms. Lavelle was an assistant administrator there in the early 1980s when she was accused of improperly coordinating with businesses her agency regulated. More than 20 officials ultimately resigned, and Ms. Lavelle went to

prison for perjury.

The EPA is now repeating history, this time in aid of the greens—and leaving far more evidence than was ever marshaled back then. Mr. Collier runs the Pebble Partnership, which wants to develop a jobs-rich mine in southwest Alaska. For more than a year, he’s waged a hardball fight to uncover why the EPA blocked his proposal before he could even file a permit. He’s now obtained documents that explain it. The agency acted for ideological reasons, and in coordination with green activists.

In February 2014 the EPA took the unprecedented step of issuing a pre-emptive veto of the Pebble Mine, flouting long-standing law that gives the Army Corps of Engineers first authority over such projects. The EPA claimed it got involved in “response to petitions” in 2010 from Native American tribes. And it claimed it issued a veto because its internal watershed assessment proved the mine would do environmental harm.

The veto hit weeks after Mr. Collier took over Pebble, turning the former Clinton administration official and lawyer into a full-time EPA battler. He’s filed a lawsuit questioning the EPA’s veto authority; another demanding hidden EPA documents; and yet another claiming the EPA flagrantly violated a federal law requiring officials to work with outside players in a public and structured way—not in secret. He’s sending info to the EPA’s inspector general, who is now investigating.

Mr. Collier also sought EPA documents related to the veto by submitting disclosure requests to related agencies. The National Park Service recently came through with a smoking gun: a nine-page “Options Paper” for the Pebble Mine, already in circulation by early May 2010. It shows the agency intended even then to veto the mine—a full year before it began its (sham) watershed assessment. The only question was timing. One reason listed in support of nixing the mine pre-emptively was that this would allow Pebble to “avoid spending tens of millions of dollars on a project EPA program staff believe should be vetoed.”

Meanwhile, emails show that in drafting the options paper EPA staff collaborated with Jeff Parker, an environmental activist and attorney who works with mine opponents. In June 2010, as the paper’s draft was being revised, Mr. Parker emailed EPA biologist Phil North (driving the veto process internally) and EPA lawyer Cara Steiner-Riley. In a message with the subject line “options

paper,” he suggested how best to craft a veto. More suggestions followed, some of which made it into the final options paper.

Collaboration went both ways. Remember, the EPA claims it began its Pebble review in “response to petitions” from Native American tribes in May 2010. We now know the options paper was in circulation before that. Moreover, guess who put together the tribes’ petitions? Mr. Parker. Documents show Mr. North working with him to engineer the petitions months before they were filed. They show Mr. North providing Mr. Parker with information cited in the petitions. Mr. Parker sent correspondence to Mr. North’s home email address, not his EPA account.

As Pebble summed it up in a letter to the agency’s inspector general this week: “EPA gave anti-mine activists an opportunity to review, comment, and shape the strategy EPA would pursue to block development of the mine. Then, having decided that it would proceed to block the mine using a [pre-emptive veto], EPA sought to cloak its actions by recruiting the very same anti mine activists to ‘petition’ EPA to initiate those [veto] proceedings.”

In a Thursday interview, EPA Region 10 Administrator Dennis McLerran told me that the events described had “occurred at a very junior level of staff,” whereas the “key decision makers” on the veto spent years “doing science,” in an “open and transparent” process. He said those decision makers had not seen the options document. He dismissed Mr. North’s interactions with Mr. Parker as “field staff” communications, and said Ms. Steiner-Riley had actually told Mr. Parker he needed to talk to EPA counsel, not staff at a “lower level.” When I asked how it made the situation any better that Mr. Parker worked with an EPA lawyer, Mr. McLerran repeated that senior people had not seen the options paper.

A federal judge seems uninterested in this distinction between junior and senior staff. Even before these documents, Pebble had presented enough evidence of coordination to inspire the federal district court in Alaska in November to order the EPA to temporarily stop all veto work. The Federal Advisory Committee Act places rules on officials’ interaction with private actors, requiring an open, inclusive process.

Yet these latest records further show that Pebble was excluded, even as environmentalists worked on government documents. That an EPA lawyer

participated in that communication, and moreover that she is now (according to Pebble) among those blocking access to documents proving it, is significant. If the EPA loses this case, its Pebble veto likely gets tossed out.

And not soon enough. If the EPA's Pebble action becomes a model for the agency, it would become the effective zoner of every piece of land in the country—federal, state, private. It's a terrifying thought, and why we have rules guaranteeing every petitioner a fair and open hearing. Pebble was bulldozed in a secret, ideologically driven collusion between greens and government. That is a scandal worthy of resignations.

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