

EXHIBIT 7

LAW OFFICES OF
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OVER A CENTURY OF SERVICE TO OUR CLIENTS

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TIMOTHY A. MCKEEVER
EMAIL: tmckeever@hwb-law.com

December 28, 2017

**VIA FEDEX OVERNIGHT & DEPT. OF JUSTICE
ONLINE PORTAL**

Director
Office of Information Policy
United States Department of Justice
1425 New York Avenue N. W. Ste 11050
Washington DC 20530-0001

**Re: Appeal of Freedom of Information Act Decision
DOJ No. 145-FOI-14705
EPA No. EPA-R10-2016-008731
Our File No. : 5042-26364**

Dear Madam or Sir,

I hereby appeal the February 23, 2017 decision in this matter. The decision to deny our request as to 3660 documents identified as responsive to our modified request is not supported by the law and must be overturned.

Background

This request was originally initiated on July 21, 2016 by a request submitted electronically to the Environmental Protection Agency (“EPA”) which was the defendant in a lawsuit brought by the Pebble Partnership. It is our understanding that the lawsuit alleged that the EPA had improperly consulted with third parties concerning its evaluation of mining in the Bristol Bay region of Alaska. During the course of that lawsuit, the EPA through counsel sought discovery of copies of documents showing payments Pebble had made to third parties relating to its efforts to develop a mine in that area. Pebble sought a protective order from the court, but ultimately was ordered to respond to the government’s discovery request.¹

We filed our request under the Freedom of Information Act (“FOIA”). After discussion with lawyers at the EPA we modified and narrowed our request. On September 7, 2016 we were advised that the EPA had determined that a substantial

¹ We understand that the underlying lawsuit has now been dismissed by agreement of the parties.

number of documents were responsive to our request and that those records could be produced pursuant to our request. However we were informed that a subsequent review by the Department of Justice (“DOJ”) was required. The referral to the DOJ was apparently made by the EPA in mid-October 2016 and the DOJ has said it received the documents on October 14, 2016.

The DOJ then proceeded to take 4 additional months to review our request.² We were told that a substantial amount of that time was taken up by DOJ staff conferring with lawyers for the Pebble Partnership about what could and could not be disclosed.³ Ultimately we were advised on February 23, 2017 that none of the 4271 records identified as responsive during the review by the EPA could be produced.

We appealed that determination by letter. On September 25, 2017 we were notified by e-mail that the February 23, 2017 decision was remanded to the Civil Division for further review and processing of the responsive records.⁴ We were not informed of the reason for the remand other than it occurred after “discussions between Civil Division personnel and this Office [the Office of Information Policy].” Eight months later on October 30, 2017, we were informed that the Civil Division would be releasing 611 documents, but withholding 3,660 documents.⁵

We now wish to appeal the October 30, 2017 decision to withhold the 3,660 documents which were found to be responsive to our request. The October 30, 2017 decision denying our request for the 3,660 records claimed that two specific exceptions in FOIA applied:

- a) 5 U.S.C. sect 552(b)(4) “which concerns trade secrets and commercial or financial information obtained from a person that is privileged or confidential”; and
- b) 5 U.S.C. sect. 552(b)(6) “which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.”⁶

² It must be noted that neither the EPA nor the DOJ complied with the statutory deadlines in FOIA either in their initial review or the review on remand.

³ It is unclear why the Civil Division chose to confer with a third party about our request that the government produce records in its possession.

⁴ Exhibit A.

⁵ Exhibit B.

⁶ This, of course, is not an accurate quote of the language of the statute. The actual wording is “(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.”

No explanation or justification for the application of these provisions was provided in the denial. However, neither of the two exceptions were correctly applied here and the decision below should be reversed and the documents produced.

Argument

1. Exemption 4 of the FOIA does not apply.

This exemption protects “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”⁷ The exemption encompasses two types of records i.e. a) trade secrets and b) commercial or financial information.

The information at issue here is not “trade secrets” as that term has been defined in the context of FOIA. *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280 (D.C. Cir. 1983) narrowly defined this term as “a secret commercially valuable plan, formula, process or device that is used for the making, preparation, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.”⁸ There is also a requirement that there be a “direct relationship” between the trade secret and the productive process.⁹

Here the records sought are records of payments made by Pebble to others in connection with Pebble’s past efforts to obtain approval of a proposed mining project. The records do not include private formulas or compounds. They are not akin to the secret recipe for Coca-Cola or Kentucky Fried Chicken. Nor do the records have anything to do with the “preparation, compounding or processing of trade commodities.”¹⁰ The records do not represent an end product of either innovation or substantial effort. And there is no “direct relationship between the trade secret and the productive process.”¹¹

These records will simply relate to payments made by Pebble to seek support for its proposed mining project. It can be expected that those payments were made to local residents, groups, governments, officials or the like. There is a strong public interest in knowing what Pebble did in its efforts to obtain permission from various agencies to exploit publically owned resources from state lands.

But the records have nothing to do with the making or processing of any product. The trade secrets element of exemption 4 does not overcome the strong presumption in FOIA for the disclosure of records held by the government.

⁷ 5 U.S.C. 552(b)(4)

⁸ 704 F.2d at 1288

⁹ *Id. Accord Ctr. For Auto Safety v. NHTSA*; 244 F.3d 144, 150-51 (D.C. Cir. 2001)

¹⁰ 704 F. 2d at 1288

¹¹ *Id.*

Since the requested records are not trade secrets, the inquiry must then look to whether they are a) commercial or financial information, b) obtained from a person, and c) which are privileged or confidential. Only if all three of those elements are met can the decision not to disclose the documents be upheld. Of course the agency bears the burden of establishing that the information meets these elements.

While these records may have documented transactions between Pebble and others, they do not have intrinsic commercial value i.e. they do not relate to the prices of goods or services. They probably do not contain private information about the mineral deposits, quality of the ore, or information which a competitor might benefit from. (The ore deposits are in mining claims apparently owned by Pebble or affiliated entities. The claims give Pebble the exclusive right to mine in those areas so no competitor can exploit the ore. See AS. 38.05.195.) The records do not relate to the actual mining or processing of ore which is Pebble's core business. Instead the records relate to conduct engaged in by a commercial entity which is incidental to its commercial activities.

It is unclear if all of the records are "financial." Some may be but most probably relate to activities by Pebble which do not include sales, statistics, research data, technical designs, customer and supplier lists, profit and loss data, overhead and operating costs, and information on financial condition.¹²

The final element in which must be established for exemption 4 to be applied is whether the submitted information is "privileged or confidential." The analysis must begin with an examination of whether the information is considered confidential. In *National Parks and Conservation Ass'n v. Morton* 498 F.2d 765 (D.C. Cir.1974) the court held that whether the information would customarily be disclosed to the public by the person from whom it was obtained is not dispositive.¹³ Nor is an agency promise not to disclose the information.¹⁴ The court held that a document is confidential if "disclosure of the information is likely to have either of the following effects : (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained."¹⁵

In the subsequent *Critical Mass Energy Project v. NRC* case, the D.C. Circuit en banc refined the *National Parks* case.¹⁶ The court held that the term "confidential"

¹² See Department of Justice Guide to the Freedom of Information Act ("FOIA Guide") at p 270.

¹³ 498 F.2d at 767.

¹⁴ *Washington Post Co. HHS* 690 F.2d 252,268 (D.C. Cir. 1982) citing *Nat'l Parks*. 498 F.2d at 766)

¹⁵ 498 F.2d at 770.

¹⁶ 975 F.2d 871 (D.C. Cir. 1992)

means something different if the person who provided the information did so voluntarily or was obligated to furnish the information. When the disclosure was voluntarily and the information is not normally voluntarily disclosed by the submitter, the court held the information is categorically protected.¹⁷

However, where as here, the submitter was obligated to provide the information, the *Critical Mass* court reaffirmed the two part test from the *National Park* case, i.e. documents are confidential (and not subject to disclosure) if either the disclosure would impair the agency's ability to obtain the information in the future or if the disclosure is likely to cause substantial harm to the competitive position of the submitter.

Here the information was not provided voluntarily—Pebble resisted production until ordered to do so by a U.S. District Court judge. Therefore the standard applicable to voluntary disclosures as discussed by the *National Park* and *Critical Mass* courts is not applicable.

There is no indicating that disclosing this information will make it harder for the agency to gather similar information in the future. After all, the agency here had to seek a court order to obtain these documents. That option will remain available.

The competitive harm factor does not apply here and does not support the decision below to not disclose these records.

The D.C. Circuit has “emphasized” that the “important point for the competitive harm in the FOIA context . . . is that it be limited to harm flowing from the affirmative use of the proprietary information by competitors.”¹⁸

It is hard to see what harm could result to Pebble from the affirmative use of these records by Pebble's competitors. The mine is proposed to develop mineral claims on land belonging to the state of Alaska. Pebble has taken steps under state law to obtain mining claims. Pebble (or its affiliate companies) is the exclusive owner of the mining claims it seeks to develop. Without Pebble's consent none of its competitors can develop those claims. No other entity can gain access to the mineral reserves on those claims—in short Pebble has no competitors who can make affirmative use of the information relating to Pebble's payments to third parties to support development of the mine. No one else can come up with a better, cheaper, easier way to develop these claims or this mine based on the information in the records which requestors seek. There simply is no harm flowing from the release of this information which any competitor can cause to Pebble. The D.C. Circuit has required evidence of “actual competition and a likelihood of substantial competitive injury” to be shown.¹⁹ No such evidence exists in this matter.

¹⁷ *Id.* At 880

¹⁸ Pg 305 of the Guide.

¹⁹ 830 F. 2d at 1152

It is possible that the records will be embarrassing or cause unfavorable publicity to Pebble. However that is “irrelevant” to a determination as whether Exemption 4 should be applied to block disclosure under the FOIA.²⁰

There is also no basis to conclude that the records at issue are privileged. The D. C. Circuit has indicated that this term is not synonymous with confidential.²¹ Most cases have treated this term to recognize traditional legal privileges i.e. attorney-client, work product etc. The 10th Circuit has gone so far as to hold that a court’s protective order does not constitute a privilege under this exemption.²² Here there is no generally recognized legal privilege which shields these records from disclosure. They are not records of medical care, spousal communication, attorney-client communications, priest-penitent communications or the like.

The case law establishes that these records are not confidential or privileged for the reasons stated above and therefore Exemption 4 to FOIA does not justify the refusal to produce them.

2. Exemption 6 does not apply.

The second reason the Civil Division has provided for denying the requested disclosure was 5 U.S.C. sect 552(b)(6) which “concerns materials the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.”²³

The principal reason this exemption does not apply is that the records sought relate to the privacy interest of corporations not an individual. The United States Supreme Court has held that corporations do not possess personal privacy interests under FOIA. See *FCC v. AT&T, Inc.*, 131 S. CT. 1177, 1182 (2011); *Nat’l Parks and Conservation Ass’n v. Kleppe* 547 F.2d 673, 686 n.44 (D.C. Cir. 1976) (“the sixth exemption has not been extended to protect the privacy interests of businesses or corporations”).

The records at issue were produced by the Pebble Limited Partnership. For most of the time that these records were created the members of that entity were publically trading international mining corporations i.e. Anglo American US (Pebble) LLC (headquartered in London, England) and Northern Dynasty Minerals (headquartered in

²⁰ *Id.* At 1154. See also *Occidental Petroleum Corp. v. SEC* 873 F.2d 325, 341 (D.C. Cir 1989)

²¹ *Wash. Post v HHS*; 603 F. Supp. 235, 237-39 (D.D.C. 1985) Rev’d on procedural grounds and remanded 795 F. 2d 205 (D.C. Cir 1986)

²² *Anderson v. HHS*, 907 F. 2d 936, 945 (10th Cir. 1990)

²³ As discussed above (See footnote 5) this is not an accurate quote of the statute.

Vancouver, BC Canada).²⁴ Since 2014 when Anglo American terminated its ownership, the Pebble Limited Partnership has been solely owned by Northern Dynasty.²⁵

These corporations are not individually owned or closely held. Their shares are publicly traded.²⁶ The records produced by the Pebble Limited Partnership are not entitled to exemption 6 protection and the decision by the agency to the contrary must be overturned.

Even if these records were entitled to the privacy protections afforded by exemption 6, the public interest in the disclosure of these records outweighs any privacy rights. Pebble was seeking to develop a very large mine located on state land in Alaska. The minerals are owned by the people of Alaska and a complex permitting process necessary to determine if the proposed mine could be permitted. The mine site is in the upper reaches of the largest remaining wild salmon streams in the world. Those rivers produce billions of salmon each year. The mine has been the source of national and international concern because of its potential environmental consequences. That public process to obtain the necessary permissions from the local, state and federal governments is intended to insure that the proposed mine could be constructed and operated safely.

The records sought in this FOIA request relate to payments made by Pebble to influence the permitting process. It is likely that those records will reveal payments to individuals, including public officials, communities, nonprofit and for profit entities, governments and others. These records allow the public to learn if the federal agencies involved in the permitting of the mine have performed their duties properly or whether they have been improperly influenced by the millions of dollars Pebble is believed to have spent.

It is known that Pebble paid hundreds of thousands of dollars to the Lake and Peninsula Borough, the local government in the area where the mine is being built and that none of those funds were paid as taxes or otherwise required by law. Releasing the request records will allow Pebble's actions to gain approval of the mine to be known. One of the purposes of FOIA is to "check against corruption and to hold the governors accountable to the governed." See *NLRB v. Robbins Tire and Rubber Co.*, 447 U.S. 214, 242 (1978). Pebble was seeking permission to construct and operate a mine which would exploit resources belonging to the public. It is certainly in the public interest to allow the public and governmental officials who must issue the permits to gain access to documents which discuss the payments made by Pebble while it sought approval.

Recently, Pebble has reported it filed applications for permits to proceed with development of this mine on December 22, 2017. Its prior efforts to obtain approval

²⁴ See Exhibit C.

²⁵ *Id.*

²⁶ See Exhibit C & D.

were largely suspended in 2014 when its principal investor, Anglo American, withdrew from the project. Pebble is now again seeking approval from various agencies and is thus renewing its efforts to convince agencies, state and local governments and the general public that the mine should proceed. The public has a significant interest in knowing how and what Pebble did in the past to gain approval and the records sought by our request are now even more in the public interest.

Because these records were created and produced by a business entity and not by an individual person but by a company owned and controlled by corporate owners, it was error for the Civil Division to conclude that the records should not be produced due to exemption 6.

3. No other exemptions apply

The letter suggests that other exemptions might avoid the disclosure of records which relate to law enforcement or national security matters. However there is no suggestion that a mining company seeking to build a mine in wilderness in southwestern Alaska would have created or produced records which involve law enforcement and or national security issues and so those comments appear to be irrelevant boiler plate and not a basis for this agency decision.

Conclusion

Neither Exemption 4 nor 6 apply. It does not appear that there was actually any review of the records – there apparently was just a conclusory determination that these records as a group should not be produced. The EPA, interpreting the same law, determined that 4271 documents could be produced. Yet the purported review by the Civil Division of DOJ determined that only a small portion of the responsive records could be produced and that the bulk of the records are exempt from production. As pointed out above that conclusion was inconsistent with the law. These records should be disclosed pursuant to the mandate of the Freedom of Information Act. The agency decision should be overturned.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Timothy A. McKeever', with a stylized initial 'A' and a long horizontal flourish extending to the right.

Timothy A. McKeever



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

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Timothy A. McKeever, Esq.
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701 West Eighth Avenue
Anchorage, AK 99501-3408
tmckeever@hwb-law.com

Re: Appeal No. DOJ-AP-2017-004159
Request No. 145-FOI-14705
MWH:JMB

VIA: Email

Dear Mr. McKeever:

You appealed from the action of the Civil Division of the United States Department of Justice on records referred to it by the United States Environmental Protection Agency pursuant to your Freedom of Information Act request for access to various records concerning Pebble Limited Partnership, and/or its parent company, Northern Dynasty Minerals Ltd.

After carefully considering your appeal, and as a result of discussions between Civil Division personnel and this Office, I am remanding your request to the Civil Division for further review and processing of the responsive records. If the Civil Division determines that records are releasable, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by the Civil Division. If you would like to inquire about the status of this remand, please contact the Civil Division directly.

If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

9/25/2017

X 

Matthew Hurd, Associate Chief, for
Sean O'Neill, Chief, Administrative Appeals ...
Signed by: MATTHEW HURD



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HW & B - SEATTLE

U.S. Department of Justice
Civil Division

Washington, DC 20530
October 30, 2017

Timothy McKeever, Esq.
999 Third Avenue, Suite 2600
Seattle, WA 98104

Request No. 145-FOI-14705
HDK

Dear Mr. McKeever:

While processing your Freedom of Information Act request dated July 21, 2016 for certain documents produced by Pebble Limited Partnership and/or its parent company, Northern Dynasty Minerals Ltd. to the Environmental Protection Agency (EPA) or the Department of Justice, the EPA referred 4,271 documents to this Office for processing and direct response to you. This Office received the documents on October 14, 2016, and the referral was assigned tracking number 145-FOI-14705.

On February 23, 2017, in response to your request, the Civil Division withheld the responsive records in full because they were protected from disclosure under the FOIA pursuant to:

- 5 U.S.C. § 552(b)(4), which concerns trade secrets and commercial or financial information obtained from a person that is privileged or confidential; and
- 5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

You subsequently appealed the response and the Office of Information Policy (OIP) remanded your request to this Office on September 25, 2017 for further processing. After reviewing your request and subsequent appeal, the Civil Division is releasing 611 documents to you in full and withholding 3,660 documents in full.

The Civil Division is withholding the 3,660 responsive records in full because they are protected from disclosure under the FOIA pursuant to:

- 5 U.S.C. § 552(b)(4), which concerns trade secrets and commercial or financial information obtained from a person that is privileged or confidential; and

- 5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through the eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received within sixty days from the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Hirsh D. Kravitz
Senior Supervisory FOIA Counsel
Office of FOIA, Records, and E-discovery

Enclosure



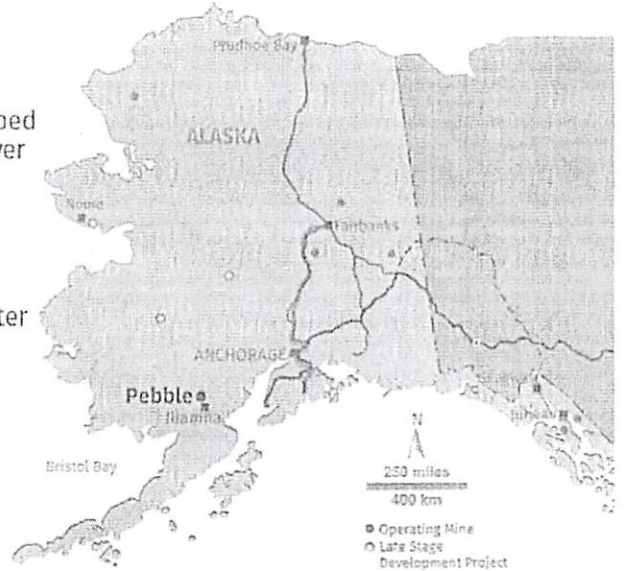
Northern Dynasty Minerals Ltd.

The PEBBLE Project | The Future of U.S. Mining & Metals

INVESTMENT HIGHLIGHTS

- 100% ownership of southwest Alaska's Pebble Project, the most significant undeveloped copper-gold-molybdenum-silver deposit in the world
- Over \$750 million* invested includes \$150 million on environmental science
- Goal is to re-partner this quarter
- Goal is to initiate permitting this quarter
- Stable and predictable path to timely permit
- Pebble can be part of solution to Alaska's fiscal crisis
- Strong committed management team with proven record of success

* See disclosure, page 4.



NORTHERN DYNASTY FACTS & GOALS

A Tremendous Store of Wealth

Northern Dynasty and its currently 100% owned subsidiary Pebble Partnership hold interests in mineral claims located on state land in southwest Alaska, in an area listed by the US Geological Survey as the world's most extensive mineralized system. The Pebble Deposit occurs within this important mineralized system.

Through drilling of more than 1 million feet in some 1,200 holes, it has been determined that the Pebble deposit represents:

- 6.44 billion tonnes of measured and indicated resources containing 57 billion lb copper, 70 million oz gold, 3.4 billion lb molybdenum, and 344 million oz silver; and
- 4.46 billion tonnes of inferred resources, containing 24.5 billion lb copper, 37 million oz gold, 2.2 billion lb molybdenum and 170 million oz silver.

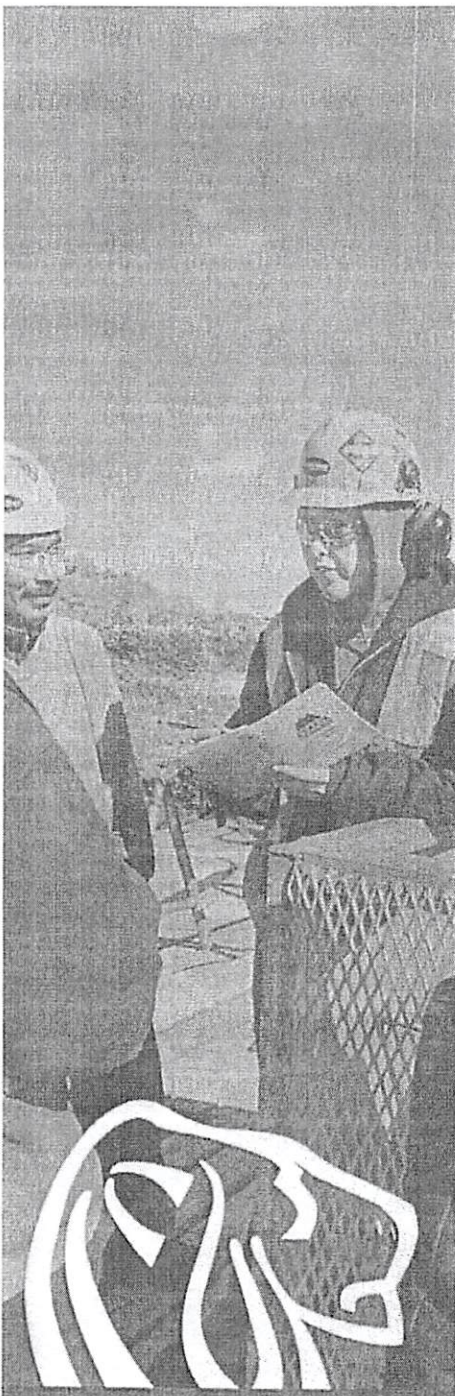
Pebble is Ready for Re-Partnering

- The mining cycle is clearly at the early stages of recovery
 - medium term supply-demand outlook for Cu and Au is constructive for prices
- Pebble is a unique development stage asset
- Pebble is strategic - for the region, for the State of Alaska, for the United States
- Partnership discussions are advanced - our goal is to complete this quarter

Pebble is Ready for Permitting

Over US\$750 million* has been invested in the Pebble Project. Advances include:

- Ten years and approximately US\$150 million spent on environmental/socioeconomic studies
- Science-driven engineering design
- Current development scenario under consideration includes:
 - Greatly reduced project footprint
 - Elimination of primary mine operations in the Upper Talarik watershed region
 - Enhanced Tailings Storage Facility (TSF) - enhanced buttresses, improved slope & safety factors
 - Separate lined TSF for Potentially Acid Generating (PAG) tails
 - Elimination of the use of cyanide in mill recovery process
- Significant financial benefits to the region and the state
 - Pebble can be part of the solution to Alaska's fiscal crisis
- Pebble's goal to initiate federal/state permitting by year end with a mine design that fully co-exists with healthy fish and wildlife populations and traditional ways of life in southwest Alaska, and enhances the economic and social well-being of all Alaskans



Key Share Information

(as at October 18, 2017)

TSX: NDM; NYSE American: NAK

Shares Basic:	304.0 million
Shares Fully Diluted:	365.0 million
Market Capitalization:	US\$635.4 million
52-Week High/Low:	US\$3.45 / US\$0.66
Avg 3 Mo. Trade Vol:	1,063,496 daily (TSX)
	2,898,110 daily (NYSE American)
Mo. Avg. Last 3 Mo:	CAN\$41.9 million (TSX: NDM)
	US\$91.8 million (NYSE American: NAK)
Cash on hand:	CAN\$48.7 million (June 30, 2017)

October 2017

northerndynasty.com

THE PEBBLE STORY

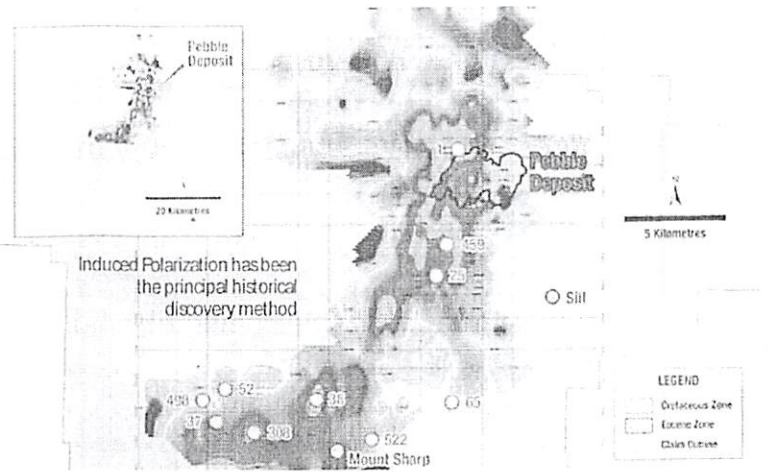
Mineral rights at Pebble were initially held by Cominco (now Teck), which explored the property from 1987 to 1997. Northern Dynasty secured agreements to purchase in 2001 and, by 2005, had acquired 100% of the Pebble deposit. Today, Northern Dynasty holds direct and indirect interests in over 417 square miles of mineral claims in southwest Alaska.

Between 2001 and 2004, Northern Dynasty expanded the known mineral resource at Pebble from 1 billion to more than 4 billion tonnes. It also initiated mine planning and began comprehensive engineering, environmental and socioeconomic studies.

In 2005, an area of significantly higher-grade mineralization was discovered at Pebble. Engineering and other technical studies continued while the company set out to fully delineate the extent of high-grade mineralization before advancing a proposed development plan.

In all, the known mineral resource at Pebble has been expanded by more than 1,000% since Northern Dynasty acquired the project. Today, the Pebble deposit comprises some 6.4 billion tonnes of Measured and Indicated plus an additional 4.5 billion tonnes of Inferred Mineral Resources and there is potential for expansion.

In 2007, the Pebble Limited Partnership - a US company based in Anchorage, Alaska, with a prominent U.S. leadership team - was formed to advance the Pebble Project.



Northern Dynasty holds interests in mineral claims on state land in southwest Alaska, including the world's most extensive mineralized system. Several deposits and targets have been identified.

From 2007-2013, Anglo American plc was part of the Pebble Partnership, and funded US\$573 million to advance exploration, environmental and engineering studies at Pebble. Northern Dynasty now owns 100% of Pebble.

From 2014-2017, Northern Dynasty and the Pebble Partnership were focused on challenging a pre-emptive action by the US EPA. A legal settlement was reached in May 2017.

Pebble is now preparing to enter normal course federal and state permitting under the National Environmental Policy Act (NEPA).

A WORLD CLASS RESOURCE

Pebble Project – Mineral Resources

Category	Cut-Off	Size Million Tonnes	Grade					Contained Metal			
			Cu (%)	Au (g/t)	Mo (ppm)	Ag (g/t)	CuEQ %	Cu (B lbs)	Au (M oz)	Mo (B lbs)	Ag (M oz)
Measured + Indicated	0.3	6,439	0.40	0.34	240	1.66	0.76	56.76	70.38	3.40	343.63
	0.4	5,681	0.44	0.35	253	1.75	0.81	55.09	63.92	3.17	319.62
	0.6	3,729	0.54	0.41	291	1.98	0.97	44.38	49.15	2.39	237.37
	1.0	1,439	0.76	0.51	342	2.42	1.29	24.11	23.60	1.08	111.97
Inferred	0.3	4,460	0.25	0.26	222	1.19	0.54	24.55	37.25	2.18	170.49
	0.4	2,630	0.33	0.30	266	1.39	0.68	19.14	25.38	1.55	117.58
	0.6	1,290	0.48	0.37	291	1.79	0.89	13.66	15.35	0.83	74.28
	1.0	360	0.69	0.45	377	2.27	1.20	5.41	5.14	0.30	25.94

NOTES

Copper equivalent calculations use metal prices of US\$1.85/lb for copper, US\$902/oz for gold and US\$12.50/lb for molybdenum, and recoveries of 85% for copper, 69.6% for gold, and 77.8% for molybdenum in the Pebble West zone and 89.3% for copper, 76.8% for gold, 83.7% for molybdenum in the Pebble East zone.

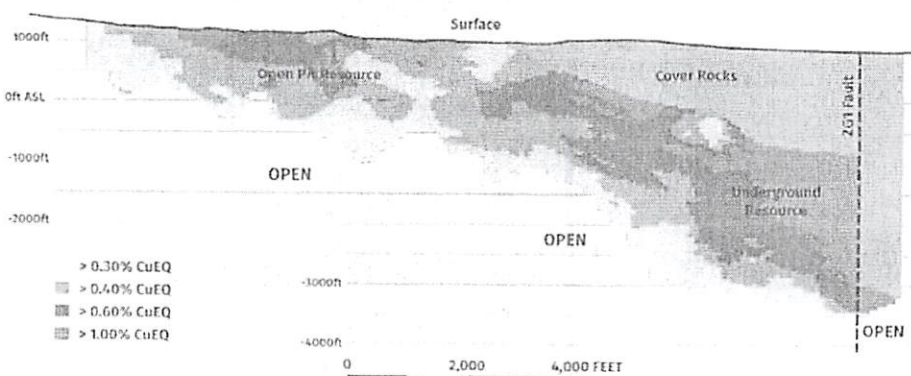
Contained metal calculations are based on 100% recoveries.

A 0.30% CuEQ cut-off is considered to be appropriate for porphyry deposit open pit mining operations in the Americas.

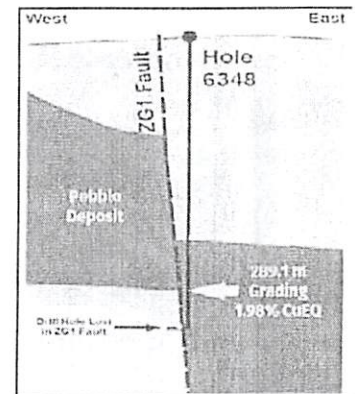
All mineral resource estimates, cut-offs and metallurgical recoveries are subject to change as a consequence of more detailed economic analyses that would be required in pre-feasibility and feasibility studies.

David Gaunt, P.Eng., a qualified person who is not independent of Northern Dynasty, is responsible for the estimate which is based on drilling to the end of 2013. The effective date of the report is December 2014.

With Potential for Expansion



The Pebble resource is open in three directions, the mineral resource estimate (above) does not include one of the two best holes drilled with a 127mm diameter hole (Hole 6348) showing 1.98% CuEQ (1.24% Cu, 0.70g/t Au, 0.042% Mo - CuEQ metal prices \$1.80/lb Cu, \$900/oz Au, \$10/lb Mo).



October 2017

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PROJECT PLANNING

Alaska is known around the world for its progressive environmental standards as well as its healthy fish and wildlife populations. While enforcing high standards, regulatory oversight in Alaska is also intrinsically stable and predictable. Alaskans strongly support responsible resource development, and have clearly indicated their support for the state's permitting system as the appropriate measure for projects like Pebble. The state currently has five hard rock mines, all of which have exemplary performance records. The Pebble Project is part of a long Alaska tradition of responsible mineral and resource development.

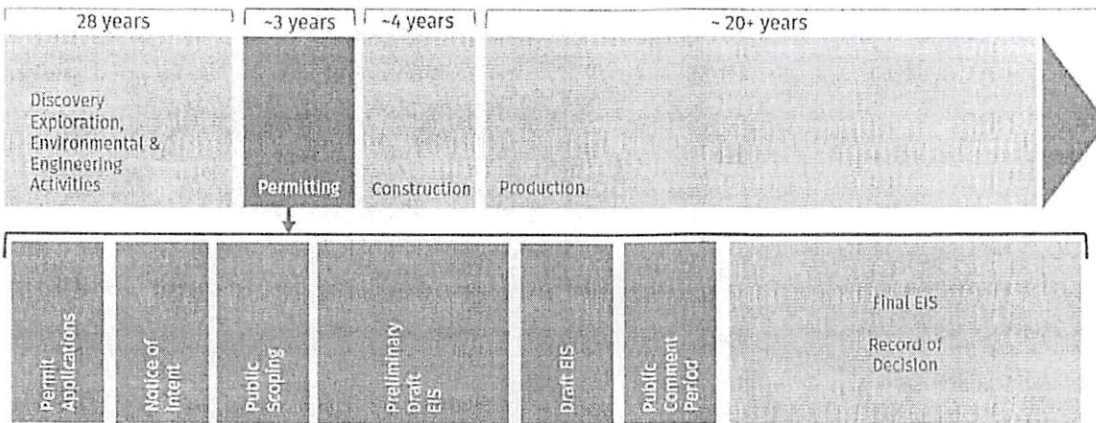
The Pebble Project is ~1000 feet above sea level, just 65 miles from tidewater on Cook Inlet by air, and enjoys favorable conditions for both mine site and infrastructure development. Extensive technical data has been collected since 2001, including details from over one million feet of drilling and engineering investigations of the Pebble deposit as well as the numerous environmental and socioeconomic studies of the local area that have been compiled into Pebble's 27,000-page Environmental Baseline Document.

Engineering studies have considered a wide range of alternatives for site layout, mining approach and infrastructure development. Mining options include a conventional open pit development or a combination of open pit and/or high-volume underground mining (block cave). The study team has looked at a range of tailings storage options, as well as milling and process alternatives – although it is expected that industry standard froth flotation will be the principal processing method selected. Alternatives for transportation, power and related infrastructure have also been considered.

Northern Dynasty and the Pebble Partnership are committed to designing a modern mine that will fully co-exist with healthy fish and wildlife populations and traditional ways of life in southwest Alaska and enhances the economic and social well-being of all Alaskans. The Pebble Partnership has listened carefully to stakeholder concerns, and is advancing a design that is responsive to these concerns. As a result, the development plan to be taken into permitting in 2017 is a substantially smaller footprint project than previously contemplated.

PROJECT STATUS

A Permit Ready Project



- Goal is to initiate NEPA permitting by year-end
 - Advance expeditiously to complete an Environmental Impact Statement (EIS)
 - Wealth of high quality engineering & environmental work.
 - Extensive alternatives assessment to support timely permitting
- Federal Administration focus on more timely, predictable permitting processes

PEBBLE PROJECT - A GENERATIONAL OPPORTUNITY

Pebble can Help Address Alaska Fiscal Crisis

While the Lake and Peninsula Borough and broader Bristol Bay region in which Pebble is located possess rich natural resources, including robust salmon fisheries, they also face high levels of unemployment, a high cost of living and decreasing population; several local villages have either lost or face imminent closure of their schools. For a variety of reasons the vast majority of the value of the Bristol Bay commercial salmon fishery does not benefit local people. There has been and continues to be a significant out-migration of Alaska Native people from local villages as the jobs and personal income required to live a traditional lifestyle in rural Alaska are simply not available to them.

Through significant capital investment, high-wage job creation and training, billions of dollars in government revenues and supply and service contracts, Pebble can benefit generations of Alaskans and Americans

The project offers substantial economic benefits locally, regionally and statewide.

ALASKA
ECONOMIC
CONTRIBUTIONS

OPERATING BUDGET
OF \$400M+ ANNUALLY

DIRECT &
GENERATED
JOBS FOR
ALASKANS

750 TO 1,000 DIRECT
1,500 TO 2,000 TOTAL

AVERAGE MINING
WAGE = 100K+



\$8M-\$2M ANNUAL
\$37M-\$200M OVER 20 YRS

POTENTIAL
REVENUE LAKE
& PENINSULA
BOROUGH

\$4M-\$36M ANNUAL
\$97M-\$132B OVER 20 YRS

POTENTIAL
STATE TAXES &
ROYALTIES¹

Note: The information in this section is based on a current mine planning undertaken by the Pebble Limited Partnership (PLP). We continue to consider various development options and no final project design has been selected by PLP at this time. The information is intended to provide information about general economic effects/contribution of a development at Pebble to Alaska and the Lake and Borough Peninsula region. It should not be used to evaluate the Pebble Project's impact on Northern Dynasty.

1. Includes estimates of mineral licensing tax, corporate tax, and State royalties.

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MANAGEMENT

Ronald Thiessen, an accredited public accountant with more than 25 years of corporate development experience, is President and CEO of Northern Dynasty and a Director of the Pebble Partnership. Mr. Thiessen leads Northern Dynasty's corporate development and financing activities.

Marchand Snyman is a chartered accountant with more than 20 years of experience in corporate finance in the mining industry working on international projects, and is Chief Financial Officer of Northern Dynasty. Mr. Snyman is responsible for financial/corporate management and financing activities at Northern Dynasty.

Bruce Jenkins is a corporate and environmental science executive with over 40 years of experience in project and corporate management. He is contracted to the Pebble Partnership and guides environmental and permitting activities. Mr. Jenkins is Senior Vice President, Corporate Development for Northern Dynasty.

Stephen Hodgson is a professional engineer with 40 years of experience in consulting, project management, feasibility-level design and implementation, and mine operations at some of the largest mineral development projects in the world, including Pine Point zinc mine in the Northwest Territories, the Red Dog zinc mine in Alaska, Antamina in Peru, and the Oyu Tolgoi copper-gold project in Mongolia. He brings a unique perspective to the Pebble team with his experience at northern and Arctic mines.

Sean Magee is a former journalist and speech writer who brings more than 25 years communications experience to his role as Vice President, Public Affairs for Northern Dynasty. Mr. Magee's experience and expertise spans the fields of government and stakeholder relations, community and First Nations/Native engagement, media relations, crisis and issues management. He has played a central role at Pebble for more than a decade.

Doug Allen is an asset management industry specialist with more than 35 years of experience on both the sell-side and buy-side of the investment industry, and more recently the mining industry. As Vice President Corporate Communications, Mr. Allen serves as the primary liaison with the broker-dealer and asset management industries, and also works on corporate development activities.

Trevor Thomas is the company secretary to Northern Dynasty. Mr. Thomas has practiced in the areas of corporate commercial, corporate finance, securities and mining law since 1995, both in the private practice environment as well as in-house positions.

BOARD OF DIRECTORS

Robert Dickinson, Ron Thiessen, Desmond Balakrishnan, Steven Decker, Gordon Keep, David Laing, Christian Milau, Ken Pickering

LIQUIDITY

As of June 30, 2017, Northern Dynasty had cash of CAD \$48.7 million. There are currently approximately 365.0 million fully diluted shares outstanding of which Northern Dynasty management, Pebble Partnership management and Hunter Dickinson insiders own approximately 8%.

HDI

Hunter Dickinson Inc. (HDI) is a diversified, global mining group with more than 25 years of mineral development success. From its head office in Vancouver, Canada, HDI applies its unique strengths and capabilities to acquire, develop, operate and monetize mineral properties that provide consistently superior returns to shareholders.

HDI is structured as a private mining group that provides management and technical services to a diverse portfolio of high-quality and high-growth mineral companies and properties.

HDI sources and acquires mineral assets with significant potential for value growth. It has the technical capabilities and management experience to consistently and rapidly advance those properties through exploration, development, permitting, and construction and into stable and profitable mine operations.

HDI is characterized by the drive and commitment of its founders, senior management and multi-disciplinary team. It is known for its technical excellence, experience and reliability. And it is passionate about bringing Responsible Mineral Development to life in creative ways for the benefit of shareholders, partners and communities.

This brochure includes certain statements that may be deemed "forward-looking statements." All information in this brochure other than statements of historical facts, that address explorations, drilling, reclamation activities and events or developments that Northern Dynasty (NDM) expects are forward-looking statements. Although NDM believes the expectations expressed in its forward-looking statements are based on reasonable assumptions, such statements should not be in any way construed as guarantees of the ultimate size, quality or commercial feasibility of the Pebble Project, or of NDM's future performance, or the outcome of litigation assumptions cited by NDM. Forward-looking statements include the following: the Pebble Project will obtain all required environmental and other permits and all land use and other reviews, studies and development of the Pebble Project will continue to be prudent and no geological or technical problems will occur the full range of future mining at the Pebble Project is subject to a large number of risks and will require achievement of a number of technical, economic and legal objectives; the timing, nature, necessary mining and construction costs, availability of resources and the timing, nature, volume and timing of production changes in government policies regarding the use and national resource exploration and exploitation; the final outcome of any litigation, completion of the feasibility and final feasibility studies, completion of all necessary engineering for underground workings and processing facilities as well as receipt of significant additional

financing to fund these objectives as well as funding mine construction. Such funding may not be available to NDM on acceptable terms or on any terms at all. There is no known ore at the Pebble Project and there is no assurance that the mineralization at the Pebble Project will use be classified as ore. The need for compliance with extensive environmental and socio-economic rules and practices and the requirement for NDM to obtain government permitting can cause a delay or even abandonment of a mineral project. NDM is also subject to the specific risks inherent in the mining business as well as general economic and business conditions. For more information, investors should review NDM's home introduction filings at www.sedar.com and its filings with the SEC in USA.

This brochure also uses the terms "measured resources," "indicated resources" and "inferred resources." Although these terms are defined and required by Canadian regulations under National Instrument 43-101 (NI 43-101) the NI 43-101 does not require them. Investors are cautioned not to assume that any part or all of the mineral deposits or these categories will ever be converted or otherwise in addition "inferred resources" have a great amount of uncertainty as to their existence and economic and legal feasibility. It cannot be assumed that all or any part of an Inferred Mineral Resource will ever be upgraded to a higher category under Canadian rules. Estimates of Inferred Mineral Resources may not form the basis of feasibility or pre-feasibility studies

or economic studies except for Preliminary Economic Assessment as defined under 43-101. Investors are cautioned not to assume that part or all of an inferred resource exists, or is economically or legally minable.

The technical information contained in this brochure has been reviewed and approved by qualified persons which are not independent of Northern Dynasty. Information on geology, drilling and exploration potential has been reviewed by James Laing, P.Eng., information on Mineral Resources by David Laing, P.Eng., and information related to engineering and metallurgy by Stephen Hodgson, P.Eng.

A major part of the expenditures during the period 2007 to 2011, were on exploration programs, resource estimates, environmental data collection and technical studies. With a significant portion spent on engineering of various aspects of mine development, such as well as related infrastructure, power and transportation systems. The technical and engineering studies that were completed relating to mine site and infrastructure development are not considered to be sufficient or necessarily representative of management's current understanding of the most likely development scenarios for the Project. Accordingly, the Company is uncertain whether it can realize the financial value from this project. Environmental baseline studies and data, as well as geological information from exploration remain important information available to the Company, from this period in order to assist its advancement of the project.



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October 2017

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AT A GLANCE

Real Mining. Real People. Real Difference.

TALK TO US

SHARE ON FACEBOOK

SHARE ON TWITTER

WE CREATE VALUE THAT LASTS

We are a globally diversified mining business.

Our portfolio of world-class competitive mining operations and undeveloped resources provides the raw materials to meet the growing consumer-driven demands of the world's developed and maturing economies.

Our people are at the heart of our business. It is our people who use the latest technologies to find new resources, plan and build our mines and who mine, process and move and market our products to our customers around the world.

As a responsible miner – of diamonds (through De Beers), copper, platinum and other precious metals, iron ore, coal and nickel – we are the custodians of what are precious natural resources.

We work together with our key partners and stakeholders to unlock the long-term value that those resources represent for our shareholders and for the communities and countries in which we operate – creating sustainable value and making a real difference.

OUR BUSINESS AT A GLANCE

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IN
UNDERLYING
EBITDA IN
H1 2017

Real Mining. Real People. Real Difference.

WE PRODUCE

DIAMONDS COPPER PLATINUM COAL IRON ORE, MANGANESE NICKEL

WHERE WE ARE

OUR HEADQUARTERS ARE IN LONDON, UNITED KINGDOM

MINING OPERATIONS IN SOUTHERN AFRICA, NORTH AND SOUTH AMERICA AND AUSTRALIA

WE ARE LISTED ON THE LONDON AND JOHANNESBURG STOCK EXCHANGES

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We were founded in South Africa in 1917 by Sir Ernest Oppenheimer.



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