

### 9th Circ. Says EPA's Move On Alaska Mine Can Be Challenged

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A divided Ninth Circuit panel said Thursday (June 17, 2021) that federal courts can review Sheppard Mullin client Trout Unlimited's challenge to the U.S. Environmental Protection Agency's move to withdraw Clean Water Act restrictions that would have effectively blocked the Pebble Mine in Alaska.

In an excerpt from *Law360*:

"At issue is the Trump administration's decision to reverse an Obama-era proposal that would have effectively blocked the development of the major open pit mine, which is facing significant hurdles after the U.S. Army Corps denied a key water permit last year."

"...Trout Unlimited sued, arguing the Trump administration's action violated the CWA and the APA. The majority rejected the CWA arguments but said the EPA's own regulations provide it with an avenue to argue "that political considerations improperly motivated the EPA to abandon, without adequate explanation, its many earlier scientific judgments that mining in the watershed would have unacceptable effects," according to the opinion. That argument can now proceed on remand."

*Law360* quotes Sheppard Mullin partner Paul Werner, "...[the ruling is a step toward protecting the area and ensures that officials can't act on a whim and ignore its earlier scientific work. It is a really groundbreaking decision."

*Law360* also listed partner Steve Hollman and associates Abraham Shanedling and Kirsten Ryan as counsel to Trout Unlimited.

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#### Practice Areas

Litigation