

# The Pebble Mine Controversy

## Property Rights in the Orthodox Moral Tradition

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While recently the Orthodox Diocese of Alaska of the Orthodox Church in America has intervened against the establishment of a proposed open-pit copper mine, its moral critique lacks proper attention to issues of prudence. In what follows, my focus is not on the moral legitimacy of the diocese’s argument against the mine but on the prudence of its opposition. The moral right to property, and the morally right use of property, in the moral tradition of the Orthodox Church is the fundamental issue. This article argues that seeing the issue through the lens of property rights can help strengthen the Church’s position, open additional avenues of dialogue with the various economic interests involved in the mining projects, and do so in ways that help foster the long-term economic and cultural interests of Native Alaskans.

## **The Godly Use of Land: Preservation or Productivity?**

Ascetical self-denial is central to the spirituality and moral tradition of the Orthodox Church. Days of fasting take up fully half the year; the liturgical calendar is also replete with saints renowned for their ascetical undertakings.<sup>1</sup> At the same time, we need to avoid the understandable but erroneous assumption that ascetical self-denial means a rejection, or at least indifference, to the material blessings of God. For example, in the prayers said daily at Vespers and Matins, the Church prays for (among other things) “seasonable weather, for abundance of the fruits of the earth.”<sup>2</sup> Given the historical importance of agriculture this should not surprise us. It also should not surprise us that the Church’s tradition does not so much ask God’s blessing to preserve the land as to increase its

productivity. For example in a prayer asking God's blessing on newly sowed seed, we are reminded that it is God who "give[s] seed for sowing" and who commands "the land to beget and germinate" so that we will have "bread for eating." As the prayer makes clear, the land is to be both productive and used for the benefit of humanity. It is the land's ability to satisfy human need that is the context within which we must think about our relationship to the creation. Even when the prayer alludes to something such as preservation, it presupposes that we will use the land for our own benefit: "Drive away all things eating the fruit of our land and all chastisement rightly directed against us, on account of our sins."<sup>3</sup> The environmental conclusion here is clear: The land is a gift from God, given for the benefit of the human community, and it is human sinfulness that undermines the land's productive potential. As we read in Isaiah: "God, who formed the earth and made it ... did not create it in vain [but] formed it to be inhabited" (Isa. 45:18 NKJV).

While certainly not without qualifications, contemporary Orthodox social thought presupposes a basic right to private property as part of how we come to use the land in ways that are both *materially* productive and *morally* good. This right is likewise affirmed (or at least not denied) in patristic teaching on wealth and poverty. At times, though, it seems that some Orthodox Christians have equated their own antidevelopment and antifree-market presuppositions with the Church's tradition on the moral limits of property.<sup>4</sup> While I cannot fault Orthodox Christians for being concerned for the well-being of creation, much less for the poor, this disconnect reflects a faulty anthropology. Even when inspired by good, noble, and praiseworthy goals, such antidevelopment and antifree-market preferences can inadvertently undermine both human flourishing and our desire to care for the environment.<sup>5</sup>

Recently, the Orthodox Diocese of Alaska of the Orthodox Church in America (OCA) intervened against the establishment of a proposed open-pit copper mine. As a matter of prudence, there are arguments to be made both for and against any proposed mining operation; certainly, this is the case with the Pebble Creek mine. In what follows, my focus is not on the moral legitimacy of the diocese's argument against the mine but is on the prudence of its opposition. I want to look at what I see as more fundamental questions: the right to property, and the morally right use of property, in the moral tradition of the Orthodox Church. My intention is not to undermine the diocese's concern to protect both Native Alaskan culture and the surrounding environment. Rather, seeing the issue through the lens of property rights can help strengthen the Church's position and open additional avenues of dialogue with the various economic interests involved

in the mining projects in ways that are to the long-term economic and cultural advantage of Native Alaskans.

## A Moral Veto

Meeting at its annual assembly at Saint Innocent Cathedral in October of 2009 the Orthodox Diocese of Alaska passed “a unanimous resolution . . . calling on state and federal agencies to deny permits to any ‘commercial or economic project’ that threatens to damage or pollute the natural environment. The basis for the Church’s opposition to any ‘development’ derives from a spiritual and theological concern, rather than political considerations.”<sup>6</sup> The immediate context of the diocese’s resolution is a proposal for open-pit copper mining “at the headwaters of the Kvichak and Nushagak Rivers.” According to one of the groups allied with the diocese (Nunamta Aulukestai, Yup’ik for “Caretakers of the Land”), the mine represents a threat to “the largest sockeye salmon producing rivers in the world.” This also represents a grave cultural threat to the Native people who, according to Nunamta Aulukestai, “have been subsisting off of these fish for thousands of years. To put this resource at risk for an unsustainable resource such as gold is not only foolish, but it endangers the livelihoods of the residents, animals and plants that live here.”<sup>7</sup> In its defense of “the lakes, rivers, streams and ocean,” the diocese does not address the fact that the Pebble Limited Partnership (hereafter, Pebble Partnership or PLP)<sup>8</sup> owns the mineral rights to the Pebble deposit. Instead, they argue that, because of the potential negative *environmental* consequences to the bay and the possible destructive *cultural* consequences to the Native people that could result, the proposed mine itself is unjust and must not be built. While there are environmental and economic reasons for not developing the mine,<sup>9</sup> the diocese’s argument only lightly touches on these, leaving the more technical arguments to their allies. Instead, the diocese makes a moral argument against the mine.

Even a cursory reading of the diocese’s resolution makes clear that they have set an impossibly high standard for any economic development in the region. Those “who would bring economic development to our communities” can only do so if they first “prove by successful and continuing operation *elsewhere on earth* (and not hypothetically or theoretically), that they can conduct such activities without potential or significant harm to the natural environment or polluting the waters which we hold blessed and sacred.”<sup>10</sup> It is only under these circumstances that the diocese is willing to invoke “God’s Blessing” on the project (whether the diocese would invoke God’s malediction on projects that fail to meet this standard is unclear). They conclude by resolving,

The Orthodox Church in Alaska calls upon all appropriate state and federal agencies to reject any so-called commercial or economic “development” that in any way threatens the viability, purity and sanctity of the natural world, especially the rivers and lakes which we hold sacred by both God’s original blessing and the continued invocation of the Holy Spirit to bless and sanctify the rivers and lakes along which our communities have been established for thousands of years.<sup>11</sup>

The diocese is not alone in its fight; commercial and recreational fishing industries that operate in the Bristol Bay area have also opposed the mine. According to Amanda Coyne of the *Alaska Dispatch*, chief among the diocese’s allies is “Bob Gillam, founder of the financial firm McKinley Capital Management and one of Alaska’s wealthiest citizens. Gillam is also one of Alaska’s most outspoken opponents of Pebble.”<sup>12</sup> According to his critics, Gillam “is just trying to protect his fishing and hunting lodge from the Pebble Mine.” While not denying his own economic interest, Gillam responds

that the area’s wealth of salmon and wilderness that have sustained the regions Native people for more than 11,000 years are worth infinitely more. The mine’s arsenic, mercury, acid drainage and copper tailings could destroy salmon habitat, he said, and the dam proposed to contain it in the earthquake-prone region is not enough protection.

He also argues that the mine offers minimal economic benefit for the area and that the estimated

300 to 400 jobs that Alaska might gain annually if the Pebble Partnership follows through on its mining plans is more than offset by the risk to Bristol Bay’s “red gold”—salmon that are among the last commercially harvested wild runs on the Pacific Coast. According to a 2007 University of Montana study on the economics of wild salmon watersheds, nearly 7,000 jobs depend on the salmon fishery, worth nearly \$300 million per year.<sup>13</sup>

Supporters of the mine counter that “the Pebble copper deposit could have significant economic impacts to the state of Alaska including an estimated \$136 to \$180 million in annual taxes and royalties, annual expenditures that could place the operation among the top tier companies in the state, and an estimated 600 percent increase in new tax revenue for the Lake & Peninsula Borough.”<sup>14</sup> As for the potential environmental harm, Pebble Partnership CEO John Shively counters that these arguments are based on the U.S. Environmental Protection Agency’s (EPA) “deeply flawed approach of creating and evaluating a completely

hypothetical mine plan, instead of waiting until a real, detailed mine plan is submitted to regulators as part of a complete permit application.”<sup>15</sup>

## The Case for Native Alaskan Property Rights

While the diocese is well within its right in seeking to exercise a moral veto over the mine, historically such appeals have failed to protect “tribal sovereignty and Native hunting and fishing rights” in the face of those intent on developing Alaska’s mineral reserves.<sup>16</sup> This is not meant to deny the importance of such arguments about economic or environmental matters. However, the diocese’s argument fails to take into account the practical ineffectiveness of moral arguments *alone* in defending the ancestral rights of Alaskan Natives. The lack of clear, legally enforceable property rights is a factor that must be considered if the diocese is going to be effective in helping to preserve a more traditional way of life among Alaskan Natives.

We have as an example the matter of subsistence fishing. Lori Thomson writes, “Before there was cash, there were caribou. Before salaries, salmon. Before the Russians and the Americans came, Alaska Natives worked long shifts catching, hunting and picking their next meal. The cycle of life was based on subsistence—the non-commercial, non-sports taking of fish and game.”<sup>17</sup> While different from American law, Native Alaskan culture (like that of other native peoples) has a concept of personal property and so at least an implicit theory and practice of property rights that historically has played a role in regulating economic activity.<sup>18</sup> Because Alaska initially remained largely unsettled by Americans, “there was relatively little encroachment on the property of Alaska Natives.” The absence of any pressing threat meant that there was also little need for the Native people to formalize their traditional practices under state or federal law.

However, “from the 1920s until Statehood, as Alaska’s non-Native population increased, piecemeal encroachment began.” While the idea “that Alaska Natives possessed property rights and rights to self-government under federal law became the accepted view of the national government ... there was little pressure to deal with Alaska Native land claims.” Thus, as Alaska moved closer

to statehood in the 1950s and after Alaska became a state in 1959 the aboriginal claims of Alaska Natives began to be viewed as an obstacle to development interests. Although Statehood itself did not affect aboriginal title, it set in motion a series of events that combined to set the table for the eventual passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971. That Act extinguished aboriginal title, but left unresolved important questions regarding tribal sovereignty and Native hunting and fishing rights.<sup>19</sup>

Again, while there are differences between Native Alaskan and Anglo-American theories of property, the actual absence of legally enforceable property rights to (among other things) ancestral fishing waters like those at Bristol Bay is the legacy of colonialization and not because of the absence of a concept of property rights among Native people. This matters for the diocese's opposition to the Pebble creek mine proposal precisely because, as Peter J. Hill and Roger E. Meiners note, "environmental concerns are essentially property rights problems."<sup>20</sup> In other words, the lack of such rights is at least part of the reason for the Pebble mine conflict.

Saying this, however, does not necessarily settle what form such rights ought to take for the Native people. Historically, ownership has tended to be communal rather than personal or individualistic. For example, in *Tlingit and Haida Indians v. United States*, the Court of Claims describes "the character of tribal land tenure." The Court notes that the "land and water owned and claimed by each local clan division in a village was usually well-defined as to area and use." A similar arrangement existed for "fishing streams, coastal waters and shores, hunting grounds, berrying areas, sealing rocks, house sites in the villages, and the rights to passes into the interior." The Court also noted that tracts "of local clan territory were parceled out or assigned to the individual house groups" within the clan "for use and exploitation" under the supervision of clan chiefs "assisted by other house chief elders of the clan." In effect, "a sort of council . . . controlled the clan's affairs." What individuals evidently did not have under this system was a personal right to transfer land as they saw fit. In fact, "except under special circumstances, there was no authority in a clan or clan division to sell, transfer or otherwise dispose of, in whole or in part, any claimed area of land or water. Land was transferred from one clan to another only as compensation for damages, as gifts in connection with marriages and the like, and such transfers were infrequent." Finally, "there were certain common areas which could be used by all the clans comprising a particular group of clans residing in a single geographical area." Thus, for example, there were "designated offshore fishing and sea mammal hunting areas in larger bodies of water, channels and bays and stretches of open sea [that] could also be used in common by all members of the various clans residing in a particular geographical area, but Indians residing in other geographical areas had no right to such use."<sup>21</sup>

Unlike traditional land rights, which were governed at the clan level, the introduction of *private* property rights to individuals would represent a cultural innovation. However, if property rights are to be effective, then some adaption to contemporary circumstances may be necessary. Such adaption should be consistent with, or at least not opposed to, Native culture. Moreover, property

rights are essential to economic development. Their absence not only undermines economic development, it also keeps people in a state of dependency and therefore on the margin of the wider society.<sup>22</sup> As a practical and pragmatic matter, clear rights—in this case to traditional fishing waters—would give people a better foundation not only for economic development but also serves as a legal basis to seek compensation if the Pebble mine were built over their objections.

Finally, for the Orthodox moral tradition (and accordingly for the diocese) there exists a fundamental right of all human beings to enjoy the fruits of their labor. This necessarily includes a right to property. While the right to property is not absolute (as is say, for example, the right to life), it, too, must be taken into account as part of any Orthodox Christian involvement in the Pebble mine controversy. To this end, in the next section we will look more systematically at the right to property in the moral tradition of the Orthodox Church.

## The Right to Property

The Moscow Patriarchate, in its 2000 document *The Basis of the Social Concept of the Russian Orthodox Church*,<sup>23</sup> argues that wealth creation and private property are essential not only to human flourishing and a just civil society but also to the Church's own ministry. Property, or more broadly wealth, is "God's gift given to be used for [our] own and [our] neighbor's benefit" (*Basis*, VII.2). To be sure, the right to property is not "absolute." Nevertheless, property is "a socially recognized form of people's relationship to the fruits of their labour and to natural resources." Under normal circumstances this includes:

1. "the right to own and use property"
2. "the right to control and collect income" from one's property and
3. "the right to dispose of, lease, modify or liquidate property" (*Basis*, VII.1).

Finally, "the alienation and re-distribution of property" that violates "the rights of its legitimate owners" is condemned (*Basis*, VII.3).<sup>24</sup>

Although not as well-known as contemporary Orthodox theologians, the nineteenth-century Russian Orthodox philosopher Vladimir Solovyov offers an interesting anthropological perspective that can help us fill out the brief treatment on property rights in the *Basis*. Where Enlightenment thinkers often hang their argument on self-ownership, Solovyov argues it is the ability of the human person not only to think but also to recognize himself in his thoughts, *and* to recognize his thoughts as distinct from himself that is the root of private property. These

qualities, needless to say, are not limited to the middle class or to the wealthy, much less to particular cultures. They are in fact common to all human beings, including the very poorest.

Although he begins with the thinking subject, Solovyov is no Cartesian and is sensitive to the social dimension of the person and of property. While all “the acute questions of the economic life are closely connected with the idea of property,” property itself “belongs to the sphere of jurisprudence, morality, and psychology rather than to that of economic relations” as such.<sup>25</sup> This is because human wealth—intellectual, spiritual, cultural, or material—is always partly inherited. No one is self-made in an absolute sense, and if “it were not for the intentional and voluntary handing down of what has been acquired, we should have only a physical succession of generations, the later repeating the life of the former, as is the case with animals.”<sup>26</sup> He then quickly makes his argument for private property—especially land:

Inherited property is the abiding realisation of moral interaction in the most intimate and the most fundamental social group—namely, in the family. Inherited wealth is, on the one hand, the embodiment of pity [i.e., philanthropy, compassion, and love], reaching beyond the grave, of the parents for their children, and, on the other, a concrete point of departure for a pious memory of the departed parents. With these two is connected, at any rate with regard to the most important kind of property—the property in land.

He goes on to argue that inherited wealth (and especially land)

is a moral bond, and one which extends human solidarity to material nature, thus making a beginning of its spiritualisation. This fact both justifies the institution of inherited property in land and serves as a basis for making it more conformable to the demands of morality. It is not sufficient to recognise the ideal character which obviously attaches to such property: it is necessary to strengthen and develop this character.

The moral goodness of property extends beyond humanity to embrace nature as well:

Decisive check must be put upon the treatment of the earth as a lifeless instrument of rapacious exploitation; the plots of land handed down from one generation to another must, in principle, be made inalienable and sufficient to maintain in each person a moral attitude towards the earth.<sup>27</sup>

While his last assertion is problematic (i.e., how precisely does one guarantee sufficient land for subsequent generations simply through inheritance?), for

Solovyov private property is key to protecting human dignity and to fostering a just society. Like tradition, property is part of the inherited wealth that makes the spiritualization of the human person (and creation!) possible. Or, to put the matter somewhat more directly, private property is central to the personal and community dimensions of human flourishing because, like tradition, it gives us the freedom to pass on to the next generation the fruits of our labor, giving both them and us the possibility of transcending a purely material way of life.

## The *Right* Use of Property

While not a panacea, Terry Anderson and Laura E. Huggins write that “property rights to oneself (human capital), one’s investments (physical capital), or one’s ideas (intellectual capital), secure claims to assets” and “give people the ability to make their own decisions, reaping the benefits of good choices and bearing the costs of bad ones.”<sup>28</sup> In his extensive study of wealth and poverty in the first centuries of the Christian era, Peter Brown makes a similar point. Wealth is not evil but (ideally) at the service of human freedom, responsibility, and creativity. It is wealth that makes possible the creation of a community, whether religious or secular, within which human beings can flourish.<sup>29</sup>

In arguing that property is both essential (even if secondary) to the personal and community dimensions of human flourishing, Solovyov makes an argument consonant with patristic theology. For the fathers of the Church, private property (as with material wealth more generally) was seen, according to Brian Matz, as “a social problem.”<sup>30</sup> Especially under the influence of monastic authors, “the danger of wealth,” like marriage and family life, “has to do with its distraction and entanglement with this world through business affairs,” writes Helen Rhee.<sup>31</sup> While the fathers raise moral concerns about property (as they do about marriage), Matz notes that “forcibly redistributing property had few, if any, supporters” even as there were few, if any, supporters of *mandatory* celibacy for all believers.<sup>32</sup> Again, as with marriage and family life, the concern was not that wealth and property were evil but rather that they were often misused and subsequently drew one from Christ.

An additional challenge for the contemporary reader is that the fathers did not address property systematically but pastorally in homilies, sermons, and letters. They were concerned with helping the faithful conform themselves more closely to the example of Christ, to build up the body of the Church, and to help care for those most in need. When we turn to the fathers for guidance about the use of material wealth, we do not find an early Christian version of Adam Smith’s *The Wealth of Nations*. Instead we find the practical, *ad hoc* advice of pastors dealing

with the spiritual and physical needs of their congregations: “The use of wealth and possessions, rather than the wealth or possessions themselves, is the issue. The clear message is that *individual believers* are obligated to use their wealth to the right end in light of the coming judgment.”<sup>33</sup> There is a wealth of pastoral advice and admonition about caring for the poor and about remaining detached from one’s possessions. If we are not careful, however, this is also literature that can easily be taken out of context and (mis-) applied to contemporary concerns. Let me offer two brief examples.

According to Johan Leemans and Johan Verstraeten, for the fathers, “‘the poor’ were viewed in a completely different way than in our own day,” and therefore “Christian discourse about them did not serve the same purpose it does today.” While contemporary Christian humanitarian efforts see care for the poor as an end in itself, “in late antiquity” there was a frank and unapologetic “‘instrumentalisation’ of the poor... The ‘have nots’—a volatile group—are not so much important in themselves but are at least equally as important as gatekeepers to the kingdom of God for those who have.”<sup>34</sup> Moreover there was in the early Church a generally accepted “process of mutuality and exchange, whereby the wealthy, middle class, and poor helped initiate spiritual growth in one another through a shared social mission”—the haves by their generous and liberal giving, the have nots by their grateful and prayerful receiving.<sup>35</sup>

What was noticeably absent, especially among “(Greek) patristic authors,” was a “critical attitude *vis-à-vis* the Roman empire and its habits (except in the case of persecution of Christians).” Where contemporary Christians are often “critical of the dominant political and economic powers of our era,” the fathers simply saw the empire as a given that was “not as such put into question.”<sup>36</sup> This leads to a second difference between the fathers’ era and ours. According to Susan R. Holman, while “patristic Christian views on justice and human rights strongly affirmed and bolstered the *spiritual* status of the poor and needy in society,” they “often seem to have had less of an effect (if any) on systematically improving their *social* status ... by, for example, improving education, housing, and economic balance.” To be sure, the reasons for this are “complex,” but it nevertheless represents a significant difference between our own age and that of the fathers.<sup>37</sup>

However, we ought not to exaggerate this difference. For example, take the distinction common in the world of the Church fathers between “beggars” (*ptōchoi*) and what today we call the working poor (*penētes*).<sup>38</sup> For the latter, the church’s intervention aims at autonomy and (relative) economic independence so the person could meet his or her obligations; anything that undermines human freedom, responsibility, and creativity (i.e., our ability to work) is morally wrong and must be avoided.<sup>39</sup> St. John Chrysostom, for example, sees the ability to work

as an “even greater consolation” to the poor than “the summer season” when the poor, “even if they walk nude” are still warmed by “the rays of the sun,” which suffice for “them in place of clothing” and when the “season of the year supplies them with a makeshift table.” He goes on to say that “for those who build houses, till the earth, and sail upon the sea,” their labor is for them like the “fields and houses and other sources of revenue are to the wealthy”—a source of income and so independence.<sup>40</sup>

It is during the winter when the poor lack “food, a heavier garment, a shelter, a bed, shoes, and many other things” that the Church’s assistance to the poor is essential. Why? Because what the poor lack most of all in the winter (and often other times of the year) is work so that they can provide for themselves and their families. The saint calls this an “altogether grievous” state of affairs since “work passes them by, because no one hires the wretched, or summons them to service.” When work is unavailable, the Church’s philanthropy “substitut[e]s for the employers’ hands.”<sup>41</sup>

Like many early Christian preachers, Chrysostom is critical of how some abused their wealth, but he no more argues for abolishing private property or its forcible redistribution by the government than do the other fathers. Instead, he encourages, according to Costanzo, “righteous ownership and virtuous stewardship.”<sup>42</sup>

Moreover, he frames the question of wealth and property in ascetical and soteriological terms. Where a preacher today might limit himself to the obligations of the rich to the poor, Chrysostom argues that both the poor and the wealthy have an obligation to rightly use the gifts—material or not—that God has bestowed on each since “alms may be done not only by money, but by acts.” Regardless of our financial situations we are all able, for example, to “kindly stand by a person,” offering “him a helping hand.” This “has often done more good even than money.” All of “us [are] set to work all the different kinds of almsgiving.”<sup>43</sup> This means that Chrysostom expected even those physically incapable of work (beggars), to alleviate the suffering of others. They were to do this not by giving money they did not have but through their prayers or consoling words. “John exhorted the wealthy and the poor to participate” in almsgiving “as an act of virtue,”<sup>44</sup> writes Costanzo, because all are called to ease the suffering of others by word or deed or gift.

## Conclusion: Production Not Preservation

“One cannot help but suspect that part of the contemporary appeal of the concept of the environment,” writes the Orthodox theologian James Carey, “is that it offers little or no support for obligations *within* the human sphere.” Instead we tend to invest it “with a quasi-sacred character.” He continues, “[T]he concept of the environment . . . generate[s] obligations of humans to the nonhuman sphere *surrounding* us,” but not to each other.<sup>45</sup> The diocese’s concerns for the traditional culture of the Native people and to protect the environment are commendable, but, in both cases, the diocese speaks as if the moral obligations to one’s neighbor and to care for God’s creation is wholly the responsibility of the mining corporation (i.e., “the wealthy”). Left unexamined are the obligations of the Native people—and the diocese—toward the creation and especially the men and women who make up the various businesses and communities who are facing the potential of economic loss if the project does not happen.

In the tradition of the Orthodox Church, property, whether material or cultural, is entrusted to us by God not simply for our own benefit but also for the benefit of others. Unlike Chrysostom for the beggars, there is no sense in the diocese’s resolution, or in the various ad campaigns, that the Native people—or the Church—have any obligation to ease the suffering of others; this includes where possible and morally permissible, fostering economic development. To view the Native people of Alaska as passive is a morally dangerous undertaking and one that risks, despite the best of intentions, perpetuating the very injustices the diocese is seeking to correct. A careful, and appreciative, consideration of the property rights—and obligations—could help the diocese advocate for public policies that serve not only the needs of the Native people but also the common good.

The morally correct use of the material bounty bestowed by God on humanity is the context within which we must understand the Church’s teaching on property. As a practical matter, this means that any Orthodox response to a situation such as the proposed Pebble copper mine, or really any environmental issue, needs to take the *priority* of productivity over preservation into account. This means that the *moral* question of property hinges not on preservation as such but on morally good forms of production. Even the mine’s opponents do not want to “preserve” Bristol Bay—they *want to preserve a particular productive use* of the waters. But while commercial and recreational fishing interests are currently allied with the subsistence fishing interests of the native people, and so the pastoral interests of the diocese, there is no guarantee that this is a permanent state of affairs. Today’s allies can be tomorrow’s (economic) enemies.

As a matter of prudence, there are arguments to be made both for and against any proposed mining operation. Moral opposition alone, however, will not secure the goals for which the diocese is advocating. This is why the focus here has not been on the moral legitimacy of the diocese's opposition to the mine but rather on a lacuna in their analysis and thus in their intervention: a consideration of Orthodox social teaching on property rights. Far from undermining the diocese's concern to protect both native Alaskan culture and the surrounding environment, seeing the issue through the lens of property rights would help both to strengthen the Church's position and open additional avenues of dialogue with the various economic interests involved with the mining projects.

## Notes

1. Most notable here are the "fools-for-Christ." The Greek Orthodox moral theologian Christos Yannaras, in his book *The Freedom of Morality*, trans. Elizabeth Briere (Crestwood, NY: St. Vladimir's Seminary Press, 1984), 65–66, observes that like the prophets of the Old Testament, the fool for Christ "always aim[s] to uncover the reality and truth hidden behind the practices of this world." To those of us who are comfortable and self-satisfied, "the fools come to remind us that the Gospel message is 'foolishness,' and that salvation and sanctity cannot be reconciled with the satisfaction that comes with society's respect and objective recognition."
2. *The Divine Liturgy of St. John Chrysostom*, vol. 1 of *Service Books of the Orthodox Church* (South Canaan, PA: St. Tikhon's Seminary Press, 1984), 34.
3. Monk of St. Tikhon's Monastery, ed., "Prayer Over a Sowing of Seed," in *A Small Book of Needs* (South New Canaan, PA: St. Tikhon's Monastery Press, 1987), 287–88.
4. For more on this see Michael Butler and Andrew P. Morriss, *Creation and the Heart of Man: An Orthodox Christian Perspective on Environmentalism* (Grand Rapids: Acton Institute, 2013), 1–11.
5. See Butler and Morriss, *Creation and the Heart of Man*, 5–8.
6. "Alaskan Diocesan Assembly Passes Resolution on the Environment," <http://oca.org/news/archived/alaskan-diocesan-assembly-passes-resolution-on-the-environment>.
7. "Who We Are," <http://www.nunamta.org/>; *Resolution of the Assembly of the Orthodox Diocese of Sitka, Anchorage and Alaska Concerning the Sanctity of the Earth and the Responsibility all Alaskan Native People to Serve as Its Guardians and Protectors* (hereafter *Resolution*), October 21, 2009, Orthodox Church in America, <http://oca.org/news/archived/alaskan-diocesan-assembly-passes-resolution-on-the-environment>.

8. PLP is owned in equal parts by the London-based Anglo American PLC and the Canadian based Northern Dynasty Minerals Limited.
9. See, for example, Jerry Johnson, "Harvest the Earth?" *Foundation for Research on Economics & the Environment*, August 28, 2013, <http://www.free-eco.org/insights/article/harvest-earth>.
10. *Resolution*, emphasis in original. For more, see William M. Denevan, "The Pristine Myth: The Landscape of the Americas in 1492," *Annals of the Association of American Geographers* 82, no. 3: *The Americas before and after 1492: Current Geographical Research* (September 1992): 369–85.
11. *Resolution*. One can question the degree to which contemporary Alaskan Natives are being faithful to traditional practices. The Church and its allies stress the continuity of contemporary practice with its historical antecedents. What they fail to account for are the cultural *changes* that have come with, for example, the adoption of Russian Orthodox Christianity by many Alaskan natives. They also remain silent on the adoption of modern technology and its role in the daily life of the Native community. For example, putting aside for the moment the question of any environmental impact, why are the cultural changes brought by high powered rifles and ATVs acceptable but those by mining are unacceptable?
12. Amanda Coyne, "Pebble Opposition Finds Religion," *Alaska Dispatch*, September 13, 2011, <http://www.alaskadispatch.com/article/pebble-opposition-finds-religion>.
13. Rosanne Pagano, "Pebble Mine's Formidable Foes," *Alaska Magazine: Life on the Last Frontier*, March 3, 2012, [https://web.archive.org/web/20120625093239/http://alaskamag.com/article/76/02/pebble\\_mines\\_formidable\\_foe](https://web.archive.org/web/20120625093239/http://alaskamag.com/article/76/02/pebble_mines_formidable_foe).
14. "Pebble's Estimated \$1 Billion in Annual Operating Costs Could Define a New Economic Engine for Alaska," *The Pebble Partnership*, May 30, 2013, <http://corporate.pebblepartnership.com/news-article.php?s=pebbles-estimated-1-billion-in-annual-operating-costs-could-define-a-new-economic-engine-for-alaska#sthash.efq4t1K9.dpuf>.
15. "Pebble Calls on the EPA to Abandon Flawed, Biased Approach," *The Pebble Partnership*, April 26, 2013, <http://corporate.pebblepartnership.com/news-article.php?s=pebble-calls-on-the-epa-to-abandon-flawed-biased-approach>. In the ensuing lawsuit seeking to halt the EPA's prohibition of the mine, U.S. District Court Judge H. Russek Holland issued a preliminary injunction against the EPA. See Elwood Brehmer, "Federal Judge Orders EPA to Halt Pending Pebble Action," *Alaska Journal of Commerce*, November 26, 2014, <http://www.alaskajournal.com/Alaska-Journal-of-Commerce/November-Issue-5-2014/Federal-judge-orders-EPA-to-halt-pending-Pebble-action/>.

16. Robert T. Anderson, "Alaska Native Rights, Statehood, and Unfinished Business," *Tulsa Law Review* 43, no. 17 (2007): 17.
17. Lori Thomson, "Subsistence," *Alaska History and Cultural Studies*, <http://www.akhistorycourse.org/articles/article.php?artID=355>.
18. For a cross-cultural discussion of the supposed absence of private rights among indigenous people see Craig S. Galbraith, Carlos L. Rodriguez, and Curt S. Stiles, "False Myths and Indigenous Entrepreneurial Strategies," *Journal of Small Business and Entrepreneurship* 19 no. 1 (2006): 1–20. Even if it takes a different form, the notion of "ordered liberty" is not unique to the Anglo-American experience.
19. 389 F.2d 778 (Cl. Ct. 1968) quoted in Anderson, "Alaska Native Rights," 17.
20. Peter J. Hill and Roger E. Meiners, "Property Rights and Externalities: Problems and Solutions," in *Who Owns the Environment?*, ed. Peter J. Hill and Roger E. Meiners (New York: Rowman & Littlefield, 1988), xi.
21. 177 F. Sup. at 452 quoted in Anderson, "Alaska Native Rights," 20.
22. Hernando De Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York: Basic Books, 2000).
23. Department for External Church Relations, *The Basis of the Social Concept of the Russian Orthodox Church* (Moscow, 2000), <https://mospat.ru/en/documents/social-concepts/>. Hereafter cited in text as *Basis*, followed by chapter and section number.
24. The basis and limits on property sketched out in the *Basis* are similar to what we find in American civil law (e.g., laws pertaining to eminent domain), Catholic Social Teaching on the universal destination of created goods, and the moral obligation on individuals to ease the suffering of others that we find in natural law.
25. Vladimir Solovyov, *The Justification of the Good: An Essay in Moral Philosophy*, trans. Nathalie A. Duddington (London: Constable and Company, 1918), 349.
26. Solovyov, *The Justification of the Good*, 356.
27. Solovyov, *The Justification of the Good*, 357.
28. Terry Anderson and Laura E. Huggins, *Property Rights: A Practical Guide to Freedom* (Stanford: Hoover Institute Press, 2009), xvi.
29. Peter Brown, *Through the Eye of a Needle: Wealth, the Fall of Rome, and the Making of Christianity in the West, 350–550 AD* (Princeton: Princeton University Press, 2013).
30. Brian Matz, "The Principle of Detachment from Private Property in Basil of Caesarea's Homily 6 and Its Context," in *Reading Patristic Texts on Social Ethics: Issues and Challenges for Twenty-First-Century Christian Social Thought*, ed. Johan Leemans,

- Brian J. Matz, and Johan Vertraeten (Washington, DC: Catholic University Press, 2011), 165.
31. Helen Rhee, "Wealth, Poverty, and Eschatology: The Pre-Constantine Christian Social Thought and the Hope of the World to Come," in *Reading Patristic Texts on Social Ethics*, 79; see as well 1 Corinthians 7.
  32. Matz, "The Principle of Detachment," 165. Brown, *Through the Eye of A Needle*, 309, points out that the idea of wealth as inherently evil is not an orthodox (or Orthodox) position but belongs to the Pelagian call for the "radical ascetical renunciation" of wealth and not simply generous almsgiving. "Wealth was a bad habit. It was the result of innumerable free acts of avarice and violence. A free act of renunciation would reverse that sinister process. Wealth would drop off the rich like a great cake of rust." For the Pelagians, "Wealth was for one thing only—to be renounced."
  33. Rhee, "Wealth, Poverty, and Eschatology," 75.
  34. Johan Leemans and Johan Verstraeten, "The (Im)possible Dialogue between Patristic and Catholic Social Thought: Limits, Possibilities, and a Way Forward," in *Reading Patristic Texts on Social Ethics*, 223.
  35. Eric Costanzo, *Harbor for the Poor: A Missiological Analysis of Almsgiving in the View and Practice of John Chrysostom* (Eugene, OR: Pickwick, 2013), 121.
  36. Leemans and Verstraeten, "The (Im)possible Dialogue," 227.
  37. Susan R. Holman, "Out of the Fitting Room: Rethinking Patristic Social Texts on 'The Common Ground,'" in *Reading Patristic Texts on Social Ethics*, 122.
  38. See Costanzo, *Harbor for the Poor*, 13n14. We see this distinction not only among Greek speaking Christians but also Latin speakers such as Saint Augustine, see Brown, *Through the Eye of A Needle*, 339–68.
  39. Chrysostom reminds his listeners of their obligation to care for the poor as well as support their own family. Costanzo [*Harbor for the Poor*, 93], reflecting on Chrysostom's homily on Acts 10:1–4 (*In Acts hom. 22.1* [PG 60:171–72; NPNF1 11:201]), writes that "Tabitha, and later Cornelius" are examples for the saint "of those who gave alms faithfully but were careful to look after the needs with the church and their households first."
  40. "A Sermon on Almsgiving," in *St John Chrysostom: On Repentance and Almsgiving*, vol. 96 of *The Fathers of the Church: A New Translation*, ed. Thomas P. Halton, trans. Gus George Christos (Washington, DC: Catholic University of America Press, 1998), 132.
  41. "A Sermon on Almsgiving," 132.
  42. Costanzo, *Harbor for the Poor*, 129.

43. Chrysostom, "Homily XXV" in *NPNF1* 11:166.
44. Costanzo, *Harbor for the Poor*, 23, 24.
45. James Carey, "Sedimentation of Meaning in the Concepts of Nature and the Environment," in *Toward an Ecology of Transfiguration: Orthodox Christian Perspectives on Environment, Nature, and Creation*, ed. John Chryssavgis and Bruce V. Foltz (New York: Fordham University Press, 2013), 182.