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May 17, 2022

Mr. Randy Bates
Alaska Department of Environmental Conservation
Sent via email

Re: Request highlighting regulations regarding request for public hearing on updated engineering request

Dear Randy:

The Alaska Miners Association (AMA) opposes the Southeast Alaska Conservation Council's (SEACC) request for a public hearing on an updated engineering report submitted by Constantine Mining on its Waste Management Permit.

AMA is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,400 members that come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Our members include individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, and major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry.

It is our understanding that SEACC has requested its members to seek a public hearing on an updated engineering report submitted by Constantine Mining with respect to its Waste Management Permit (WMP) that the Alaska Department of Environmental Conservation (ADEC) approved in 2019. The applicable regulation does not provide for a public hearing for a change in engineering design – only for a major change in the WMP itself. Accordingly, the AMA requests that ADEC follow its regulations and deny SEACC's request.

Background:

Constantine received all approvals necessary to proceed with an underground exploration program in 2019. These include a Plan of Operations Approval from the Alaska Mental Health Trust, an Integrated Waste Management Permit from ADEC, and a Reclamation Plan Approval from the Alaska Department of Natural Resources (ADNR). The underground ramp was designed to serve as a deep platform for definition and deeper exploratory drilling.

The WMP authorized management of waste rock generated from the underground ramp and seepage water that would flow into the ramp over the life of the project. More than 100 rock samples collected along the projected route of the ramp showed that none of the waste rock generated by the underground development would generate acid or leach metals. Finally, the Reclamation Plan and financial assurance provided details on temporary and permanent closure scenarios for the project, including providing the financial resources to execute the reclamation should Constantine fail to do so.

In September 2019, ADEC remanded the WMP to better evaluate the applicability and potential impacts of the Ninth Circuit Court *Hawaii Wildlife Find v. County of Maui* and to provide time for Constantine to supply additional information to ADEC. The permit remained in full effect and there was nothing preventing Constantine from proceeding with its exploration program including discharging underground wastewater under the terms of the permit. Constantine submitted the first of several study designs to better characterize the hydrogeology at the site in October 2019.

Then, in August 2020, Prior to initiating any of the work authorized in these permits, Constantine voluntarily requested that ADEC withhold its approval of the wastewater discharge system as set out originally in Appendix A of its permit until further investigation and study of the affected hydrology is conducted. Five days later ADEC approved Constantine's request with conditions that further approval to construct the wastewater system was subject to receipt of a revised wastewater system design report and all hydrological data and interpretive reports used in support of the final wastewater system design.

On April 14, 2022, Constantine submitted the updated wastewater system design to ADEC along with all of the hydrological data and interpretive reports used in support of that design and requested ADEC review and approval of the updated design. The updated design is similar to the original design except that it now incorporates active water treatment for suspended solids which reduces the reliance on a pair of settling ponds for this treatment. The two years of field studies served largely to better understand the hydrogeology in the area and add a level of confidence in the estimation of water quantity and quality and the basic wastewater management approach.

Conclusion:

As a matter of regulation, the submittal of an updated design for the wastewater treatment system does not trigger a requirement for public comment because the terms of the original wastewater discharge permit have not changed.

Unfortunately, SEACC launched a campaign on its website on May 2, initiating an e-letter campaign directed at ADEC, and a formal letter to ADEC Director of Water Randy Bates requesting a 30-day public comment period citing AS 46.03.110. SEACC takes the position that Constantine is applying for a permit when in fact Constantine has a permit and that permit is in full force; it is simply updating the design details in one of the permit's supporting documents. As such there is no mechanism for public comment at this point under the ADEC regulations.

For these reasons the AMA requests that ADEC follow its regulations on this point and deny SEACC'S request. Thank you for your consideration, and please do not hesitate to contact me with questions.



Deantha Skibinski
Executive Director