

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In re:	)	
	)	
	)	
Teck Alaska, Inc.	)	NPDES Appeal No. 10-04
Red Dog Mine	)	
	)	
NPDES Permit AK-003865-2	)	
	)	
	)	
	)	

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**NANA REGIONAL CORPORATION’S REPLY IN SUPPORT OF NOTICE  
REGARDING THE TIMING OF THE BOARD’S DECISION**

NANA Regional Corporation (“NANA”) previously filed a notice requesting that, in its discretion, the Board act prior to October 31, 2010 to resolve the narrow remaining issues in this pending appeal. In doing so, without arguing any issues not before the Board, NANA explained that a decision on the remaining issues would serve to clarify jurisdiction over the Red Dog Mine NPDES permit, whereas a later decision would add agency jurisdiction to the long list of complications and disputes that cloud a final and fully functional NPDES permit for the Red Dog Mine.

EPA and Petitioners have filed bitter and lengthy responses that are notable for the following:

1. NANA asks that the Board make a decision by October 31, 2010. This request is unopposed.
2. NANA did not ask the Board to address any jurisdictional issues, but rather stated that these matters are not before the Board at this time. Notwithstanding the

lengthy gratuitous arguments presented by EPA and Petitioners, they too agree that there are no jurisdictional issues pending before the Board.

3. NANA's point in raising the timing of the decision with the Board was (and is) that a decision prior to October 31, 2010 will help clarify a permit situation that is part of a critically important asset of the Northwest Alaskan Native community, and that has defied certainty and finality for more than a decade. Stated otherwise, a decision after October 31, 2010 will further complicate matters.

4. In contrast, EPA has filed a lengthy response (i) chiding NANA for not attaching to its notice a copy of a Memorandum of Agreement that the parties agree the Board should not interpret, and (ii) arguing EPA's version of the jurisdictional issues that the parties agree are not presented to the Board at this time. Similarly, Petitioners have filed a response that argues at length Petitioners' interpretation of the jurisdictional issues that are not before the Board.

5. NANA declines to follow EPA's and Petitioners' lead by arguing its version of issues that all parties agree are not before the Board. However, NANA does observe that the content of and emotion evident in the responses of EPA and the Petitioners are the best possible evidence of NANA's point – that a later decision will lead to additional, complicated jurisdictional arguments that may be avoided by an earlier decision on the narrow set of merits issues remaining before the Board.

For the reasons stated in its original notice, and in this reply, and additionally because the relief sought is unopposed, NANA respectfully requests that the Board issue its decision on the remaining merits issues by October 31, 2010.

DATED this 1st day of October, 2010.

/s/Jeffrey W. Leppo

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *NANA Regional Corporation's Reply in Support of Notice Regarding Timing of the Board's Decision* in the matter of Teck Alaska Incorporated, Red Dog Mine, NPDES Appeal No. 10-04, was served by United States First Class Mail on October 1, 2010 upon the following:

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