

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

IN THE MATTER OF:
TECK ALASKA, INCORPORATED

NPDES Permit AK-003865-2

NPDES Appeal No. 10-04

OPPOSITION TO MOTIONS FOR EXPEDITED CONSIDERATION

On February 23, 2010, both NANA Corporation (“NANA”) and Teck Alaska, Inc. (“Teck”) filed a Motion for Expedited Consideration of these proceedings. Shortly after these motions, the EPA Region 10 issued a letter dated February 26, 2010, identifying the contested provisions that are stayed pending this appeal.¹ On March 1, 2010, EPA Region 10 filed its opposition to the aforementioned motions presented by Teck and NANA. Petitioners also oppose these motions and join in EPA Region 10’s opposition for the reasons stated therein.

Petitioners wish to stress that Teck and NANA’s assertions regarding closure of Red Dog Mine seem overblown since the effluent limits in the 1998 NPDES permit, which have been in place since 1998, will continue to govern the discharges, and Teck has been financially

¹ Petitioners wish to note for the record that they disagree with Region 10 EPA’s assertion that only portions of the 2010 NPDES Permit – the specified effluent limits – are contested. Petitioners argued in their Petition for Review that the permit could not be issued at all because of the State of Alaska’s legally flawed 401 Certification, mainly based upon the State’s failure to adopt an antidegradation implementation procedure. *See* Petition for Review at 15-20. If a 401 Certification is legally invalid, there is no valid certification that the NPDES permit complies with water quality standards, and EPA cannot issue the entire permit. *See* 33 U.S.C. § 1341(a).

successful operating under those limits for the last 12 years, and even in violation of those same effluent limits.

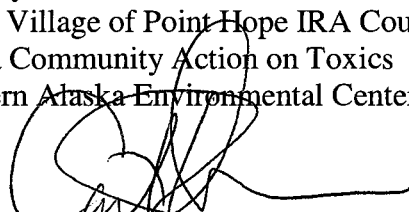
While Teck and NANA both stress the catastrophic economic impact that would follow closure of Red Dog Mine, the financial impact of mine closure would certainly outweigh the modest \$118,750 fine that Teck is required to pay under the Consent Decree entered in October 2008 for continued violations of the 1998 NPDES permit effluent limits.² Thus, Red Dog Mine's payment of this fine is literally a small price to pay for continued operations that are so important to the regional economy.

Also, Teck may not commence any of its preliminary work to develop and operate the Aqqaluk Deposit until the U.S. Army Corps of Engineers issues the required 404 Permit. The Corps has not yet issued the permit, despite expectations that it was to be issued last month.

In summary, the lack of a 404 Permit is more of an obstacle to the Aqqaluk Expansion Project proceeding than the consideration of this appeal. Under the partially-stayed 2010 NPDES Permit and the 2008 Consent Decree, Teck can continue to operate unabated as it has for the last twelve years and pay a modest annual fine at the end of the discharge season. There is no reason for the EAB to rush its consideration of the Petition.

Respectfully submitted this 10th day of March, 2010.

TRUSTEES FOR ALASKA
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² See Petition for Review, Ex. 21 at 8.