

**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)	
)	
_____)	

NANA REGIONAL CORPORATION’S COMBINED MOTION FOR LEAVE TO INTERVENE, AND MOTION FOR EXPEDITED REVIEW

I. INTRODUCTION

NANA Regional Corporation, Inc. (“NANA”) moves *unopposed* for leave to intervene in Appeal No. 10-04, which seeks review of U.S. Environmental Protection Agency (“EPA”) Region 10’s NPDES Permit No. AK-003865-2 (the “Permit”) for the Red Dog Mine. The Red Dog Mine is a world-class zinc mine located in northwestern Alaska, on lands owned by and leased from NANA. As demonstrated below and in the accompanying Declaration of Marie N. Greene (“Greene Decl.”)(Ex. 1), NANA’s interests in the Mine, the Permit, and this appeal are significant, diverse, longstanding and otherwise unrepresented in this matter. Accordingly, NANA meets the applicable standards for intervention in this proceeding.

In addition, contemporaneously with this motion for leave to intervene, NANA seeks expedited review of this appeal. Respectfully, exigent circumstances exist and, indeed, irreparable harm will result to NANA and the Native Alaskans of the NANA region, unless the processing of this appeal is expedited.

II. BACKGROUND

A. NANA Regional Corporation

NANA is a corporation formed in 1971 under the Alaska Native Claims Settlement Act (“ANCSA”) and the laws of the State of Alaska. *See* 43 U.S.C. § 1606; Greene Decl ¶ 3. The Iñupiat people who traditionally lived in northwest Alaska own NANA. *Id.* Currently, NANA has more than 12,400 Alaska Native shareholders, the majority of whom reside in northwest Alaska. *Id.* NANA is headquartered in the village of Kotzebue, Alaska, which is located 26 miles above the Arctic Circle.¹ *Id.*

Alaskans live in a natural resources dependent culture and economy. Most, if not all, NANA shareholders living in the NANA region lead a subsistence lifestyle, living off the land, fishing, hunting and trapping. *Id.* ¶ 6. Their traditional way of life, and the Arctic subsistence resources that sustain it, are fundamental to their identities as Alaska Natives. *Id.* NANA believes that protection of the environment that sustains the traditional way of life can be balanced with responsible development of commercial resources found within the NANA region. *Id.* ¶ 8.

Responsible resource development is critical to NANA shareholders’ lives in rural Alaska. *Id.* The jobs and tax revenues generated by responsible natural resource development are essential support for State and local services (such as education, roads, power, sanitation, and health care) that are vitally important to NANA’s shareholders. *Id.*

¹ The NANA region encompasses 38,000 square miles in Northwest Alaska, which is an area larger than the state of Indiana. *Id.* ¶ 4. More than 90 percent of the region’s residents are Iñupiaq Eskimo, descendants of ancestors who settled the land more than 10,000 years ago. *Id.* There are eleven communities and villages within the area – Kotzebue, the largest, as well as Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Noatak, Noorvik, Selawik and Shungnak. *Id.* ¶¶ 4-5.

NANA generates jobs, revenue and income through its various subsidiary companies. All of NANA's income is used to meet the many needs of NANA's shareholders. *Id.* ¶ 12. In addition to generating direct dividend payments to its shareholders, NANA uses its revenue to fund social and cultural programs, job training, scholarships and internships, and to provide services that benefit its shareholders. *Id.* Through its activities, NANA creates training and educational opportunities for NANA shareholders, preserves its Iñupiaq culture and invests in NANA communities to ensure the future of its people. *Id.*

B. The Red Dog Mine

The Red Dog Mine is among the world's largest zinc mines, and its zinc deposit is the largest known zinc resource in the world. *Id.* ¶ 9. The mine is located approximately 55 miles east of the Chukchi Sea, and 90 miles north of Kotzebue, in northwestern Alaska. *Id.* Mining of ore and production of zinc concentrates at Red Dog, and transportation of concentrates to the nearby port for shipment, began in 1989 and continues through year-round operations. *Id.* The operator of the Red Dog Mine is Teck Alaska Incorporated ("Teck Alaska"). *Id.*

1. NANA's interests in the Red Dog Mine

NANA interests in the Red Dog Mine are unique, significant and diverse. Greene Decl. ¶ 11. NANA owns the land and resources underlying the Red Dog Mine, owns the bed and adjacent shoreline of Red Dog Creek (the receiving water body for mine discharges regulated by the NPDES permit at issue in this proceeding), and leases the Red Dog property to Teck Alaska pursuant to an Operating Agreement. *Id.* ¶ 9. NANA

receives royalty payments from Teck Alaska, a substantial proportion of which is shared with all Native people in Alaska.² *Id.* ¶ 12.

In addition, the Red Dog Mine is the centerpiece of NANA's efforts to provide meaningful local employment to its shareholders. On average, approximately 55 percent of the mine's workforce consists of NANA shareholders or their spouses. *Id.* ¶ 13.

NANA subsidiaries and joint ventures also provide substantial contractual services to Teck Alaska's mine operations, including project construction, drilling services, transportation of supplies to the mine, hauling of concentrates from the mine to the Chukchi Sea marine terminal, and food service, housekeeping and maintenance services. *Id.* ¶ 14.

Finally, pursuant to the mine Operating Agreement with NANA, NANA shareholders form a Subsistence Committee that advises Teck Alaska and NANA on interactions between subsistence resources and mine operations. *Id.* ¶ 15. In order to ensure responsible development and protect subsistence, NANA has retained the authority under the Operating Agreement to direct Teck Alaska to shut down some or all mine operations that threaten subsistence resources. *Id.*

2. Aqqaluk Deposit Expansion

After more than 20 years of mining operations, the original ore body (also known as the "Main deposit") at the Red Dog Mine is nearly depleted. *Id.* ¶ 16. Continued operations using existing infrastructure, projected through 2031, are dependent upon

² Pursuant to Section 7(i) of ANCSA, NANA shares approximately 62 percent of the royalties it receives from the Red Dog Mine with the other twelve Alaska Native regional corporations. *See* SEIS at 3-314, 3-315. These ANCSA corporations, in turn, must share 50 percent of the revenue they receive with the ANCSA village corporations and non-village regional shareholders. Green Decl. ¶ 12.

development of adjacent ore bodies, particularly the Aqqaluk Deposit. *Id.* Unless the Aqqaluk Deposit is timely made available for development by mid-2010, Teck Alaska will be forced to close the mine in October 2010. *Id.* ¶ 17. Closure of the mine, and related closure of the marine terminal used to load concentrates for shipment, would result in very substantial economic costs and environmental risks, involving loss of employment and revenue (both royalties and contract work) for NANA and NANA shareholders, and loss of substantial revenue for other Natives throughout Alaska. *Id.* ¶¶ 24-29.

C. NPDES Permit AK-003865-3 and NPDES Appeal 10-04

Waste water generated at the Red Dog Mine is managed pursuant to a Section 402 Clean Water Act (“CWA”) NPDES permit issued by EPA Region 10 (“Region 10”). *Id.* ¶ 18. Discharges pursuant to the Permit are to Red Dog Creek, which in turn flows to Ikalukrok Creek, which flows to the Wulik River, which flows to the Chukchi Sea. *Id.*

The original NPDES permit was issued in July 1985, and reissued in August 1998. After Teck Alaska timely reapplied for the NPDES permit, the 1998 permit was administratively extended by EPA. In March 2007, EPA issued a new NPDES permit; however, this permit was withdrawn due to NEPA considerations following the filing of an administrative appeal with this Environmental Appeals Board (“EAB”). Pending reissuance of a new permit, the 1998 permit remained in effect. Prior iterations of the Red Dog Mine NPDES permit have been the subject of various proceedings before the EAB. *See In re Teck Cominco Alaska*, 11 E.A.D. 457 (EAB 2004); *In re Teck Cominco Alaska*, NPDES Appeal Nos. 07-08, 07-08 (EAB Oct. 10, 2007). The current Permit was issued by Region 10 on January 8, 2010.

Throughout the period of NPDES permitting for the Red Dog Mine, NANA has been an active and intimate participant in the NPDES process, including in discussions and negotiations with EPA and other stakeholders, and in related administrative proceedings. Greene Decl. ¶ 19. NANA has been a direct and active participant in virtually every meeting with EPA regarding NPDES permitting, and has been directly involved in commenting on every draft of the NPDES permit since 1985. *Id.*

The present administrative NPDES appeal was filed on February 17, 2010. *See* Petition for Review (EAB Dkt. 1). Petitioners characterize the primary issues on appeal as “backsliding and degradation of water quality.” *Id.* at 14. The appeal seeks remand of the Permit to Region 10 to correct alleged errors or, alternatively, a full hearing and review by the EAB. *Id.* at 43. As petitioners well recognize and intend, the timing and interrelationship between the challenged NPDES permit, development of the Aqqaluk Deposit, and continued operation or shutdown of the Red Dog Mine, pose a direct, certain and grave threat to the economic and social well-being of the NANA region and its residents. *Id.* ¶¶ 24-29.

III. UNOPPOSED MOTION FOR LEAVE TO INTERVENE³

A. Intervention Standards

In general, there is a long-standing liberal policy in favor of granting intervention in federal proceedings:

A liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the courts. By

³ NANA’s motion for intervention is unopposed. Petitioners through their respective counsel, have stated that they have no objection to NANA’s intervention. EPA is taking no position regarding NANA’s intervention. In addition, Tech Alaska, which has filed its own pending motion for intervention, consents to NANA’s intervention.

allowing parties with a *practical* interest in the outcome of a particular case to intervene, we often prevent or simplify future litigation involving related issues; at the same time, we allow an additional interested party to express its views before the court.

U.S. v. City of Los Angeles, 288 F.3d 391, 397-98 (9th Cir. 2002) (internal quotations and citations omitted; emphasis in original).

In the present context, neither the regulations for NPDES permit appeals, 40 C.F.R. pt. 124, nor the EAB Practice Manual, explicitly address intervention. Accordingly, the EAB exercises its discretion when deciding whether to grant intervention and non-party briefing. *See In re U.S.Gen New England, Inc.*, NPDES Appeal No. 03-12, at 7-8 n.13 (EAB Feb. 19, 2004). Although, the EAB has not identified precise requirements for intervention, moving parties and the EAB have addressed factors substantially similar to those applied pursuant to Federal Rule of Civil Procedure 24 by federal courts:

1. The motion for intervention must be timely;
2. The movant must claim a significant and protectable interest relating to matter;
3. The movant must be so situated that the disposition of the pending appeal may, as a practical matter, impair or impede the movant's ability to protect that interest; and
4. The movant's interest must not be adequately represented by the existing parties to the action.

See, e.g., In re District of Columbia Water and Sewer Authority, NPDES Appeal No. 05-02, 07-10, 07-11 & 07-12 at 2 (EAB Jan. 24, 2008); *In re City of Cambridge, MA*,

Department of Public Works, NPDES Appeal Nos. 06-01, 06-02 & 06-03, at 1-2 (EAB Jan. 26, 2006).

Applying these factors, in general, the EAB has exercised its discretion to liberally grant intervention to permittees and to federally-recognized tribes with water discharge regulatory authority. *See U.S.Gen New England*, at 7-8 n.13; *District of Columbia Water*, at 3-4. The EAB has been “less inclined” to grant intervention to other parties; however, it has established no prohibition or fixed principles.⁴ *Id.*

B. NANA’s Motion Is Timely

NANA has brought its motion for leave to intervene at the earliest possible stage of the process -- within days after initiation of this administrative proceeding. There can be no prejudice to the parties or delay attributable to NANA’s motion or proposed intervention. Moreover, NANA is prepared to have its intervention conditioned upon it seeking *no delay* of whatever schedule for these proceedings this Board may establish.

C. NANA Has Well-Established And Significant Interests

As applied by federal courts, the interest element for intervention is “primarily a practical guide” to disposing of disputes “by involving as many apparently concerned persons as is compatible with efficiency and due process.” *City of Los Angeles*, 288 F.3d at 398; *Greene v. United States*, 996 F.3d 973, 976 (9th Cir. 1993), *aff’d by Greene v. Babbitt*, 64 F.3d 1266 (9th Cir. 1995) (whether a sufficient interest to intervene has been demonstrated is a “practical, threshold inquiry” for which “[n]o specific legal or equitable interest need be established.”).

⁴ Where intervention has been denied, in appropriate circumstances, *amicus* status with leave to file non-party briefs has frequently been granted. *See U.S.Gen New England*, at 7-8 n.13; *District of Columbia Water*, at 3-4.

Here, NANA has significant economic, cultural, subsistence and conservation interests at stake in the substance of and the process associated with this appeal:

- NANA owns the land upon which the Red Dog Mine is located, and NANA owns the resources being mined there. NANA receives significant royalties from the Red Dog Mine to support its social and cultural obligations to its shareholders.⁵ See Supplemental Environmental Impact Statement for the Red Dog Mine Extension (Aqqaluk Project) (“SEIS”) at § 3-17, pp. 3-313 – 3-315 (detailing royalty payments to NANA);⁶
- NANA owns the bed and banks of Red Dog Creek, as well as the land surrounding it. The permitted discharge is into Red Dog Creek. This creek, and the creeks and rivers into which it flows, are resources of the NANA region that are being used by NANA shareholders today and that have been used by the Iñupiat ancestors of NANA’s shareholders for thousands of years. The health of NANA’s region, its subsistence resources and the traditional way of life followed by many NANA shareholders depends upon responsible balancing and protection of both environmental and resource development values.

⁵ Contractual rights, such as those held by NANA in the land and mine, have long been recognized as protectable interests for purposes of intervention. See, e.g., *Brotherhood of Railroad Trainmen v. Baltimore & Ohio Railroad Co.*, 331 U.S. 519, 530-531 (1947) (trade union entitled to intervene as of right in civil proceeding against railroad that might affect the terms of a collective bargaining agreement); *Southwest Center for Biological Diversity v. Berg*, 268 F.3d 810 (9th Cir. 2001) (homebuilders granted intervention in environmental challenge to land use management plan).

⁶ A copy of Section 3-17 of the Red Dog Mine SEIS is being provided to the EAB as Ex. 2 with this motion.

- NANA and its shareholders are directly and substantially dependent upon responsible operation of the Red Dog Mine as a significant component of their income and employment. In today's world, a subsistence lifestyle still requires participation in a cash economy. Without income and employment, NANA's ability to support and continue its shareholders' rural and traditional way of life would be compromised.

See supra § II; Greene Decl. ¶¶ 8-15. In sum, the Red Dog Mine, the land on which it is located, and the creek into which the mine discharges, are critically important assets of and resources for NANA and its shareholders. *Id.* ¶ 16. The economic, cultural and subsistence well-being of NANA's shareholders is inextricably linked to responsible continuing operation of the Red Dog Mine.⁷ *Id.*

⁷ NANA is not a tribe; however, the purpose, function and interest of an ANCSA regional corporation is both unique in U.S. law and analogous to tribal interests in important ways. NANA does indeed serve as a significant voice for and representative of the Iñupiat of northwestern Alaska and the traditional way of life observed by many NANA shareholders. *See* Greene Decl. ¶ 23 & Exs. 1-4 (public resolutions and endorsements of NANA's positions regarding Red Dog Mine permitting by nine federal-recognized tribes and local governments within the NANA region). Moreover, federal law recognizes this role in mandating government-to-government like consultation with NANA and other ANCSA regional corporations in a manner similar to federally-recognized tribes. *See* Consolidated Appropriation Act of 2004, Pub. L. No. 108-199, div. H, § 161, 118 Stat. 452 (2004), as amended by Consolidated Appropriation Act of 2005, Pub. L. No. 108-447, div. H, title V, § 518, 118 Stat. 3267 (2004) ("The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175[.]"). In addition, numerous federal statutes recognize the similarities by defining the term "Indian tribe" to include ANCSA Native corporations. *See, e.g.,* 25 U.S.C. § 450b(e) (Indian Self-Determination Act defining "Indian tribe" to mean "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to [ANCSA] which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians"). *See Cook Inlet Native Ass'n v. Bowen*, 810 F.2d 1471 (9th Cir. 1987) (sustaining agency finding that Alaska Native regional corporation qualified as an "Indian tribe").

D. This Appeal May Impair Or Impede NANA's Interests

The present appeal, if prosecuted to petitioners' satisfaction, will have direct, immediate and harmful effects on NANA's interests:

- The challenged Permit is necessary for development of the Aqqaluk Deposit expansion; and mine expansion is essential to continued operation of the Red Dog Mine. NANA owns the Red Dog Mine.
- The Permit and the conditions challenged in this proceeding directly regulate and directly impact water quality in Red Dog Creek. NANA owns the bed and banks of Red Dog Creek.
- Any action that impairs or impedes responsible continuing mine operations compromises the economic and cultural interests that NANA exists to promote and to protect. *See, e.g.*, SEIS § 3.17.3.2 (effects of "no action alternative" including mine closure).
- Even without regard to merits, if this proceeding clouds or impedes the path forward for development of the Aqqaluk Deposit beyond May 2010, the Red Dog Mine will close. Closure of the mine threatens irreparable and catastrophic consequences for the economy and culture of the NANA region and its people, including layoffs of the over 300 NANA shareholders working at the Red Dog Mine with little prospect of obtaining similar work within the Region.

Greene Decl. ¶¶ 24-29. NANA's extensive historical and present involvement in the Red Dog Mine's regulatory processes, including its NDPES permit processes in particular, is

evidence that NANA's interests are directly affected by any proceeding that may impair, impede, or alter Red Dog Mine regulatory requirements and operations. *Id.* at ¶¶ 21-23.

E. NANA's Interests Are Not Represented By Other Parties

Under federal intervention standards, the burden of demonstrating inadequate representation of a proposed intervenor is "minimal." *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538 n.10 (1972). The movant need only show that its interests are sufficiently different from the existing parties such that their representation "may be" inadequate. *Id.*; *Nuisse v. Camp*, 385 F.2d 694, 703 (D.C. Cir. 1967). In applying this liberal standard, courts consider three factors:

- (1) whether the interest of a present party is such that it will undoubtably make all the intervenor's arguments;
- (2) whether the present party is capable and willing to make such arguments; and
- (3) whether the would-be intervenor would offer any necessary elements to the proceedings that other parties would neglect.

City of Los Angeles, 288 F.3d at 398 (citation omitted).

Here the unique blend of economic, cultural and conservation interests and perspectives of NANA are significantly distinct from the interests of petitioners (who are determined advocates for impairing or impeding Red Dog Mine operations and, thus, adverse to NANA), EPA (the federal regulatory agency) and Teck Alaska (the mine operator). NANA's status as an ANCSA entity, its responsibility to shareholders to protection the region's subsistence resource in perpetuity, its ownership of the bed and banks of the permitted discharge water body, and its reversionary interest in the Red Dog Mine lands, are unlike and unrepresented by the interests of other parties. No other party broadly represents the interests of the NANA resources and region, and no other party's

interests encompass the diverse environmental, cultural, economic and regulatory matters at stake for NANA's 12,400 shareholders.

IV. MOTION FOR EXPEDITED REVIEW

In addition to seeking leave to intervene in this permit appeal, NANA respectfully moves the EAB to expedite this appeal. Unless this appeal process is managed such that development of the Aqqaluk Deposit may proceed by May 2010, NANA's shareholders are a population at grave risk of economic devastation. Accordingly, without any regard for the merits of the pending Petition, irreparable consequences to NANA and the economy of the NANA region will result unless this appeal is expeditiously resolved.

A. Standards for Expedited Review

The EAB has not established set principles for addressing motions to expedite. However, the Board has in its discretion granted motions to expedite its proceedings. In doing so, the EAB has looked to common-sense considerations of both fair process and exigent circumstances. Accordingly, for example, the EAB has recognized the time critical nature of Arctic activities as a basis for expedition, and prioritized appeals where resolution was necessary to allow operations or construction to occur. *See In re Shell Offshore, Inc., Kulluk Drilling Unit and Frontier Discoverer Drilling Unit*, OCS Appeal Nos. 07-01, 07-02 (EAB July 20, 20007); *In re ConocoPhillips Co.*, PSD Appeal No. 07-02, at 2 (EAB Oct. 1, 2007); *In re Shell Offshore, Inc., Kulluk Drilling Unit*, OCS Appeal Nos. 08-01 through 08-03, at 2 n.3 (EAB Aug. 6, 2008). At the same time, the Board has balanced urgency with its obligation to give appropriate consideration to the issues presented. *See, e.g., In re Hawaii Electric Light Co.*, PSD Appeal Nos. 01-24 through 01-29 (EAB Nov. 27, 2001).

B. Exigent Circumstances Warrant An Expedited Appeal

The importance of the Red Dog Mine in terms of employment (both wages and training),⁸ local and state government taxes (and the health, safety and social services they support),⁹ revenue for NANA (and the shareholder dividends and services it supports), and revenue for other Alaska native corporations pursuant to Section 7(i) of ANCSA is so *vital and irreplaceable* that closure of the mine would, literally, destabilize the local economy and government, thereby posing a genuine and serious threat to the people and the culture of the NANA region. Greene Decl. ¶¶ 24-29; *see* SEIS § 3-17 (EIS analysis of economic consequences of mine and mine closure based upon conservative 2007 projections). The consequences of even a temporary closure would be irreparable. Greene Decl. ¶ 29.

NANA appreciates that many parties to permit appeals are anxious to see Board proceedings expedited. Moreover, NANA respects the Board's considerable discretion in managing its docket. However, genuinely, the timing of this review has far greater and

⁸ In 2009 alone, Alaskan wages attributable to Red Dog Mine operations and activities were more than \$22 million, with \$2.2 million in wages directly pertaining to employment at the mine. *Id.* ¶ 25. Wages greater in magnitude would be irreplaceably lost if the mine closes because of the pendency of this appeal.

⁹ Since 2003, almost 70 percent of the Northwest Arctic Borough's ("NWAB") revenues have come from the Red Dog Mine. *See* SEIS at 3-316. As the sole taxpayer in the NWAB, the mine provided the NWAB approximately \$8.6 million in payments in lieu of taxes in 2007. *Id.* Without this annual payment from the mine, NWAB would face the loss of two-thirds of its operating budget, leading to a drastic reduction in services and potential default on school district bonds. *Id.* at 3-325. In addition, in 2007 alone, Teck Alaska spent \$321 million in Alaska supporting mine operations, including purchases of goods and services from 350 businesses and organizations, royalty and tax payments, and its own payroll. *Id.* at 3-317. It also contributed nearly \$1 million to non-profit organizations in 2007, nearly \$600,000 of which went to organizations within the NWAB. *Id.* at 3-325.

consequential effects than mere inconvenience or delay of operations at an industrial facility, or costs and lost profits to a mining company. The health of a region and the livelihoods of a Native people are at stake.¹⁰ Unless this appeal is expedited, the merits will not matter and the NANA regional will suffer needless and irreparable harm going to the very fabric of the local economy and culture. Accordingly, for these reasons, NANA respectfully requests expedited review.

V. CONCLUSION

For the foregoing reasons, NANA requests leave to intervene in this proceeding. In particularly, under the circumstances here, the ownership interest of NANA in the Red Dog Mine land and resources, as well as Red Dog Creek into which the regulated discharges addressed here flow, as well as NANA's additional directly affected contractual, environmental, cultural and economic interests, provide a compelling imperative for granting NANA's unopposed motion for intervention.

In addition, subject to the granting of its motion for intervention, and on equally compelling grounds NANA urgently moves the EAB to expedite this appeal. NANA requests that the EAB order a conference with the parties to confer regarding and establish an expedited schedule for this appeal.

¹⁰ Petitioners argue that the EAB should give special consideration and "top priority" to environmental justice principles and to protection of vulnerable populations. Petition for Review at 43. Such considerations may cut both ways regarding the merits of this appeal. However, whether viewed from the narrow perspective of petitioners or the broader perspective of NANA, environmental justice principles provide strong support for an expedited appeal.

Respectfully submitted this 23rd day of February, 2010.

/s/Jeffrey W. Leppo
Jeffrey W. Leppo, AK Bar No. 0001003
STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, WA 98101-3197
Telephone: (206) 386-7641
Facsimile: (206) 386-7500
jwleppo@stoel.com

Attorneys for NANA Regional Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NANA Regional Corporation's Combined Motion for Leave to Intervene, and Motion for Expedited Review in the matter of Teck Alaska Incorporated, Red Dog Mine, NPDES Appeal No. 10-04, were served by United States First Class Mail on February 23, 2010 upon the following:

Anna Prezyna, Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, WA 98101

Victoria Clark, Attorney
Carl Johnson, Attorney
Trustees for Alaska
1026 W. Fourth Ave., Suite 201
Anchorage, AK 99501

Michael A. Bussell, Director
Office of Water
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue
Seattle, WA 98101

Brent J. Newell, Attorney
Center on Race, Poverty & the
Environment
47 Kearny Street, Suite 804
San Francisco, CA 94108

Eric B. Fjelstad
Perkins Coie LLP
1029 W. Third Avenue, Suite 300
Anchorage, AK 99501

/s/Jeffrey W. Leppo
Jeffrey W. Leppo, AK Bar No. 0001003
STOEL RIVES LLP
600 University Street, Suite 3600
Seattle, WA 98101-3197
Telephone: (206) 386-7641
Facsimile: (206) 386-7500
jwleppo@stoel.com

Attorneys for NANA Regional Corporation