



## Southeast Alaska Conservation Council

2207 Jordan Ave  
Juneau, AK 99801  
(907) 586-6942  
www.seacc.org

Casey Sixkiller  
Regional Administrator  
U.S. EPA, Region 10  
1200 Sixth Avenue, Suite 155  
Seattle, WA 98101  
Sixkiller.Casey@epa.gov

July 8, 2022  
Sent via email

Dear Mr. Sixkiller,

We are writing concerning Constantine Metal Resources' wastewater management for the Palmer Project, an advanced stage multi-metals exploration project at the headwaters of the Chilkat Watershed, upstream of the Chilkat Indian Village of Klukwan and Haines, Alaska. We request that the United States Environmental Protection Agency (EPA) conduct due diligence on this permit to verify whether surface and groundwater are connected at the proposed Palmer Project discharge site, on the grounds that the Alaska Department of Environmental Conservation (ADEC) is failing to fulfill its role in properly administering the Clean Water Act.

Some brief background on wastewater management at the Palmer Project: In 2019, ADEC issued a waste management permit (WMP2019DB0001) that would allow the project to advance to underground exploration, discharging wastewater into the ground in close proximity to tributaries of the Klehini and Chilkat rivers, in a hydrologically complex area where surface water and groundwater are interconnected.

In fact, the supporting documents that Constantine included in the permit application indicate a groundwater connection to Waterfall Creek, acknowledging extensive groundwater connectivity in the region of the upper diffuser and all along the western side of Waterfall Creek.<sup>1</sup> Constantine's application indicates that the company is aware of the connectivity and may need to apply for an Alaska Pollutant Discharge Elimination System (APDES) permit under the Clean Water Act, but the company applied for an ADEC Waste Management Permit instead, despite this knowledge.<sup>2</sup> ADEC has not conducted due diligence to verify that discharge will not end up in the nearby surface waters.

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<sup>1</sup> Plan of Operations Palmer Exploration Project Haines, Alaska Phase I Surface Construction App. D-12 at i.

<sup>2</sup> Draft Waste Management Permit Application No. 2019DB0001 App. A at p4 Diffuser System

The undersigned organizations successfully challenged the permit, and in August 2019, ADEC remanded WMP2019B0001 for review, based in part on the likely surface-to-groundwater connection at the discharge site. The permit remains under review.

On April 14, 2022, Constantine submitted a revised permit application for a completely new waste management system, in a new location still adjacent to tributaries of the Klehini and Chilkat rivers, and still a hydrologically dynamic area where surface and groundwaters are interconnected. Constantine has indicated that once the new permit design is approved, it intends to advance to underground exploration in 2023.

Despite substantial changes to the waste management system and location, and new potential impacts on the watershed, ADEC has chosen to review the new proposal internally under the existing Waste Management Permit, denying the public any opportunity to evaluate the application and participate in the decision-making process. ADEC denied a formal request from our organizations for a 30-day public comment period and a timeline for a final decision on the remand.

The waste management permit, as written, would allow discharge to exceed state water quality standards, setting arbitrary “trigger limits” for all constituents except for mercury and pH, for which the company is expected to self-report to ADEC. The remanded permit includes no plan for dealing with such exceedances once they have occurred, nor any plan to prevent contaminated discharge from the tunnel excavation that would be authorized by the permit. The U.S. Supreme Court’s 2020 *County of Maui v. Hawai’i Wildlife Fund* decision confirmed that fundamental Clean Water Act evaluations must be undertaken to prevent contamination of surface waters from point source discharges.

This discharge site is just three miles upstream of the anadromous reach. Degradation of these surface waters would negatively impact the Chilkat Indian Village of Klukwan, the community of Haines, and the Alaska Chilkat Bald Eagle Preserve, all downstream, and all dependent on healthy salmon runs and clean water. Further, as we noted in our comments on the draft permit, the baseline groundwater and surface water data are insufficient for any type of meaningful effects analysis:

Pre-discharge groundwater monitoring wells were only tested twice 11 days apart. Many surface water monitoring sites have only been sampled 4 times. This level of data does not meet basic thresholds for data creditability. This lack of a realistic starting point is compounded by an ineffectual monitoring system. As a result, the groundwater and surface water quality data are woefully insufficient in both quantity and quality to be used to determine background natural conditions for the reasons of monitoring. Baseline data quality sensitivity all around is very low.<sup>3</sup>

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<sup>3</sup> Southeast Alaska Conservation Council comment on Draft Waste Management Permit Application No. 2019DB0001, p2, May 15, 2019.

Further compounding the threat of surface water contamination, the permit also fails to analyze the potential for a rock dump located in close proximity to the Upper Diffuser to leach into nearby surface waters.

The undersigned organizations are concerned by ADEC's artificially constrained analysis of Constantine's existing application, which fails to consider any information outside of the documents Constantine itself submitted and fails to demonstrate that discharge will not reach nearby surface waters. Considering the available information, we believe that an ADEC Waste Management Permit is insufficient to protect the downstream surface waters from contamination in these circumstances and that Constantine should be required to apply for an APDES permit under the Clean Water Act.

In the absence of due diligence from ADEC, we request that the EPA step in to verify that any permits issued to Constantine Metal Resources' Palmer Project adequately and effectively protect the nearby surface waters from degradation associated with the project.

Thank you for your consideration,

Aaron Brakel  
Inside Passage Waters Program Manager  
Southeast Alaska Conservation Council

Derek Poinsette  
Executive Director  
Takshanuk Watershed Council

Gershon Cohen  
Project Director  
Alaska Clean Water Advocacy

Jessica Plachta  
Executive Director  
Lynn Canal Conservation

David Krause  
Interim Executive Director  
Audubon Alaska

Chris Zimmer  
Alaska Campaign Director  
Rivers Without Borders

Cc: Dan Opalski, Branch Chief, Office of Water, EPA Region 10  
Cami Grandinetti, Branch Chief, Water Quality Standards, EPA Region 10  
Matthew Martinson, EPA Region 10  
Susan Poulson, EPA Region 10  
Rachael Renkens, EPA Region 10  
Michelle Davis, EPA, Region 10  
Gene McCabe, Program Manager, Wastewater Discharge Authorization, Alaska Department  
of Environmental Conservation  
Jusdi Warner, Executive Director, Alaska Mental Health Trust Lands Department  
Marnie Graham, Field Manager, Glennallen Field Office, Bureau of Land Management