

CHILKAT INDIAN VILLAGE



Southeast Alaska
Conservation Council

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Supreme Court Rules Clean Water Act Does Not Sanction Loophole
Groups say DEC must start over on Constantine permit in light of Maui decision

Thursday's United States Supreme Court [decision](#) in *County of Maui v. Hawaii Wildlife Fund* validates the strength of the Clean Water Act to protect our nation's waters. The decision recognizes polluters cannot avoid the Clean Water Act's permit requirements just by pumping pollution into the ground where doing so is the functional equivalent of discharging that pollution directly into streams, lakes, and oceans.

In the Chilkat Valley, this means the Alaska Department of Environmental Conservation must reconsider its decision not to require a discharge permit for wastewater from Constantine Metals' underground exploration, which the company plans to channel into permeable ground just a short distance upgradient from Waterfall Creek. Instead of a discharge permit, Constantine applied for a waste management permit that does not even acknowledge, let alone control, pollutant discharges to surface waters.

The Department initially endorsed Constantine's approach, granting the waste management permit in July 2019 over vigorous objections from the Chilkat Indian Village of Klukwan and local conservation groups, including the Southeast Alaska Conservation Council, Lynn Canal Conservation, Takshanuk Watershed Council and Rivers Without Borders. In September 2019, the Department agreed to reconsider its decision after the Supreme Court decided the *Maui* case, which was pending at the time, but refused to suspend the permit in the meantime.

In light of Thursday's *Maui* decision, the Department must suspend or revoke the permit immediately and go back to the drawing board.

Jones Hotch, Jr., vice-president of the Chilkat Indian Village of Klukwan, applauded the decision, stating that "we are so very grateful for this ruling; it helps us to keep our traditional subsistence lifestyle and we will continue this battle to the seventh generation."

"I am glad that the Supreme Court agrees that toxic mine pollution has the same effect whether it's dumped directly into rivers and creeks, or onto land. It eventually drains into waterways and pollutes them," stated Shannon Donahue with the Southeast Alaska Conservation Council. "We hope DEC will now revoke that flawed permit and do their job to protect water quality and the health of nearby communities."

"This is great news for the Chilkat River and the downstream communities of Klukwan and Haines," said Jessica Plachta with Lynn Canal Conservation. "90% of us depend on salmon to feed our families, and those salmon need the Clean Water Act looking out for their health."

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