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Chilkat Indian Village Continues Quest to Protect the Chilkat Valley Watershed

A recent State of Alaska administrative ruling requires further analysis to protect the Chilkat River watershed while affirming a flawed wastewater discharge permit.

KLUKWAN, Alaska (Tlákw Aan) — After a four-year effort to ensure proper environmental review of volcanogenic massive sulfide exploratory drilling wastewater discharge at the Palmer Project mine in Southeast Alaska's Chilkat Valley watershed, Chilkat Indian Village (Klukwan) is celebrating one aspect of an administrative decision by the Alaska Department of Environmental Conservation (DEC) that will require additional critical safeguards for the region's water quality, while disapproving the remainder of the illegal waste management permit ruling.

This is the second time Chilkat Indian Village (Klukwan) has prevented the State from moving forward with the wastewater permit in the last four years alone. The State found, as Chilkat Indian Village (Klukwan) contended, that DEC had violated state guidance and deprived the Tribe of a chance to participate in the permit authorization.

"We have lived here since time immemorial, and it is our responsibility, written into our Tribal Constitution, to continue to protect our Chilkat River watershed," said Chilkat Indian Village (Klukwan) Vice President Jones P. Hotch, Jr. "We are encouraged that DEC has determined more work is needed to fully understand and protect Chilkat Watershed's pristine water quality. We are disappointed DEC has upheld a dangerous and inadequate waste management permit that allows polluted water to be released onto our traditional lands and into waters that sustain our way of life."

The underground volcanogenic massive sulfide mineral exploration that will create the polluting discharge is supported by Japanese and Canadian mining companies who seek to extract copper, zinc, and other metals near the base of the Saksia Glacier, which feeds the Klehini and Chilkat rivers, home to all five species of wild salmon. The tunnel, dug through groundwater zones, will produce a source of contaminated water that once started may be permanent. This water enters the watershed about 13 miles upstream from Klukwan.

Last year, Chilkat Indian Village (Klukwan) discovered in a records request that DEC had previously approved the wastewater discharge system in secret and in violation of the Clean Water Act. After Chilkat Indian Village (Klukwan) brought this information forward to the agency, the previous approval was immediately retracted.

Chilkat Indian Village (Klukwan), who knows these lands better than anyone, maintains that the Clean Water Act requires a more stringent Alaska Pollutant Discharge Elimination System (APDES) permit for underground discharges from the exploratory drilling because of the potential for pollution to flow into the watershed's rivers. The waste management permit DEC approved instead bypasses these Clean Water Act protections.

The permit authorized by DEC raised the acceptable pollution limits higher than state standards for six harmful contaminants including lead and three other heavy in salmon-bearing waters downstream from the discharge without ever conducting the analysis. These standards are intended to prevent harm to fish, wildlife, and human health.

In the part of the ruling that acknowledges DEC staff inappropriately raised pollution limits for waters near the site based on the supposed natural conditions of those waters, DEC concluded that the agency's Water Division neglected to follow its own regulations to better understand the region's background water quality prior to issuing the waste management permit.

The decision means that before wastewater discharge can begin, DEC must follow its own [Guidance for the Implementation of Natural Condition-Based Water Quality Standards](#) to evaluate natural conditions in the nearby waters.

Hotch added that all governments must work together to protect Jilkáat Aani Ƙa Héeni (the Chilkat River watershed) for the safety and health of all people. Chilkat Indian Village (Klukwan) continues to request government-to-government consultation, not just meetings, on all activities within their traditional territories, as well as federal government engagement on this permit process as part of the Biden Administration's commitment to strengthening Nation-to-Nation relationships across the United States and Indigenous Peoples' lands and waters. Chilkat Indian Village (Klukwan) is a critical stakeholder that understands the cumulative impacts of projects such as these in the region. The state and federal governments must engage in government-to-government consultation to ensure the best outcome for all stakeholders today and tomorrow.

The ruling, issued last Friday during DEC Commissioner Brune's last days in office, is the final agency decision on the portions of the request that DEC denied. Any further legal challenges raising those issues would need to be filed in State Superior Court.

Earthjustice represented Chilkat Indian Village (Klukwan), Southeast Alaska Conservation Council, the Takshanuk Watershed Council, Lynn Canal Conservation, Audubon, and Rivers Without Borders in the appeal. Each group contributed to the research and analysis.

Background

The traditional territory of Jilkaat Kwaan includes 2.6 million acres encompassing Jilkáat Aani Ƙa Héeni (Chilkat River watershed). The entire watershed includes the Chilkat, Tsirku and Klehini Rivers, along with several salmon-bearing tributaries, which provide spawning grounds for all five species of Pacific salmon, as well as anadromous eulachon and trout.

Haa Atxaayí Haa Ƙusteeyí Sitee (Our food is our life). Jilkáat Aani Ƙa Héeni has provided food sovereignty and health and well-being to Jilkaat Kwaan since time immemorial.

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