

FOR IMMEDIATE RELEASE

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Donlin Gold project does not meet State of Alaska water quality standards

Kuskokwim Tribes appeal DEC water quality certification . . . again

Kasigluk, AK: After the Alaska Department of Environmental Conservation (DEC) issued a permit for Donlin Gold that, in violation of DEC's legal duty, ignores the mercury contamination and other degradation highlighted in the Army Corps' Final Environmental Impact Statement for the mine, Tribes filed an administrative appeal. They are appealing DEC's decision to issue a 401 Certificate of Reasonable Assurance for the Donlin Gold project that if developed would be the largest gold mine in the world. If the 401 Certificate is granted, it would provide DEC certification that the Donlin Gold Project will comply with state water quality standards. Tribes are hoping to see the certification vacated as a result of the appeal because the Environmental Impact Statement for the project is clear that operation of the Donlin Mine would result in mercury contamination, loss of vital salmon habitat, and could increase stream temperatures to the detriment of salmon. This is the third time that Tribes have challenged DEC's authorizations for Donlin. Both times, previously, the DEC granted review and sent the Certificate back to staff to reconsider whether it could certify the project.

With the vast majority of Alaska Village Council Presidents member Tribes voting to oppose Donlin Gold, the people of the region have been clear that salmon and traditional resources are the priority for their communities.

"We eat off of the water and land," said President Natalia Brink of Kasigluk Traditional Council. "If the mine spills, the water will be contaminated and all the fish that go to the tributary of Crooked Creek will be affected and we have to think of the future generations for our children to still have fish to eat."

Rather than doing all it can to protect the water quality of the Kuskokwim River, DEC's actions ignore data from the EIS that concluded that the mine will increase people's exposure to mercury.

Mark Springer, Director of Orutsararmiut Native Council says, "If the State of Alaska is willing to certify, through the permitting process, that the impacts of mine development that were

permitted by the Army Corps of Engineers will not occur or will be negligible, we have every expectation that DEC can prove, through the presumably rigorous process they followed, that that is the case.”

Background: Under section 401 of the Clean Water Act, the U.S. Army Corps of Engineers cannot issue its permit for the mine until the State certifies that the permit will comply with state water quality standards. In the so-called “401 certification,” the State must demonstrate “reasonable assurance” that the mine will not violate state water quality standards. For the Donlin Mine, DEC first issued the 401 certification on August 10, 2018, but we have repeatedly exposed errors through our requests for informal agency review. We first requested review of the first certification on August 30, 2018. When the result was inadequate, we filed another request on April 24, 2019, which again resulted in further review by agency staff. May 7, 2020, DEC upheld the 401 Certification again, providing its third explanation for doing so, and we believe it still falls far short of a reasoned decision.

The basic problem is that DEC keeps making claims that contradict the Environmental Impact Statement (EIS). In 2018, the Army Corps issued a massive EIS based on years of study. The State of Alaska was a cooperating agency that participated in preparation of the EIS. **The EIS predicted that operation of the mine could violate various water quality standards. We are focusing on three of the anticipated issues from the EIS: mercury, temperature, and stream flow.**

Mercury: The EIS reports that mercury levels in the area surrounding the mine are naturally elevated. Even under natural conditions, 14% of stream samples over five years had mercury levels in excess of the chronic criterion. Using conservative modeling, the EIS projects a 40% increase in mercury levels caused by mining operations, with correspondingly more and higher exceedances. Despite these predictions, DEC keeps anticipating no mercury violations. Water samples show a high degree of variability, with many far exceeding the limit, and the exceedances will only get worse during mine operations. Regardless of the long-term average, this high variability means there are likely to be violations, as predicted in the EIS. DEC persistently dodges this inconvenient fact. The consequences are significant, because excessive mercury may be toxic to fish and other aquatic life. The standards exist to prevent these toxic effects.

Water Temperature: Similarly, the EIS says that the dewatering of Crooked Creek from mine operations will cause increases in stream temperatures, which could violate specific state water quality standards to protect salmon spawning and rearing.

Stream Flow: The dewatering of Crooked Creek will also mean a loss of habitat for salmon, which the EIS predicts will substantially diminish the number of salmon redds in the middle reaches of Crooked Creek. Alaska water quality standards require that the water quality resulting from the mine must fully protect existing uses, including for fish. DEC nevertheless certifies compliance with this standard based on the fact that overall percentage loss of salmon

numbers in Crooked Creek as a whole are not predicted to be great. This focus on the entire stream disregards the impacts in the substantial segment most affected by the mine. Donlin's own studies for the EIS show that the mine will probably not meet water quality standards.

Native Village of Eek, Kasigluk Traditional Council, Chevak Native Village, Native Village of Nightmute, Orutsararmiut Native Council, Organized Village of Kwethluk, Native Village of Tununak, Kotlik Tribal Council, Native Village of Kwinhagak, SalmonState, Alaska Community Action on Toxics, and Native Village of Marshall are represented parties in the appeal.