

**HJR**

**17**

ALASKA STATE LEGISLATURE  
House Resources Committee

**Carl Gatto, Co-Chair**

State Capitol Building, Room 108  
Juneau, AK 99801-1182  
(907) 465-3743  
FAX (907) 465-2381  
Rep\_Carl\_Gatto@legis.state.ak.us



**Craig Johnson, Co-Chair**

State Capitol Building, Room 126  
Juneau, AK 99801-1182  
(907) 465-4993  
FAX (907) 465-3872  
Rep\_Craig\_Johnson@legis.state.ak.us

**FAX**

**To:** Don Bullock, Legislative Legal

**From:** Debra Higgins

**Fax:** 2029

**Phone:**

**Date:** May 2, 2007

**CC:**

**Re:** Amendments for HJR 17

**Pages with Cover:** 4

Don,  
The House Resources committee moved HJR 17 out as amended. The amendments are pretty straight forward, so a final CS would be fine. I've also attached a marked up version to illustrate the changes.

The amendments are:

Page 1, lines 4 – 7:

Delete starting on line 4, “; and” through line 7, “manner”

Page 2, lines 9 – 12:

Delete starting on line 9, “and” through line 12, “future;” (whole WHEREAS)

Page 2, lines 17 – 21:

Delete starting on line 17, “; and be it” through line 21, “manner” (whole FURTHER RESOLVED)

Page 2, line 22:

Insert “via electronic transmission” between “sent” and “to”

Page 2, line 26 through Page 3, line 22:

Delete starting on line 26, “the Honorable” through Page 3, line 22, “Delegation;”

Page 3, line 28:

Insert “and Couer Alaska, Inc.” after “Congress”

I think that's it – there won't be many words left on the resolution. If you have any questions, my number is 3715.

Thanks,  
Debbie

**HOUSE JOINT RESOLUTION NO. 17**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES JOHNSON, Johansen**

**Introduced: 4/5/07**

**Referred: Resources, Judiciary**

**A RESOLUTION**

1 Encouraging Coeur Alaska, Inc., to pursue all legal options to resolve the issues  
2 presented in Southeast Alaska Conservation Council v. United States Army Corps of  
3 Engineers on behalf of itself and consistent with the state's efforts to enforce its rights as  
4 a state over its resources; and requesting the United States Court of Appeals for the  
5 Ninth Circuit to adjudicate those matters that come before the court in a fair and  
6 impartial manner so that the state's natural resources can be developed in a timely and  
7 lawful manner.

8 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 **WHEREAS** the state is rich in natural resources and is dependent on the development  
10 of those resources for its well-being; and

11 **WHEREAS** the policy of the federal government expressed in 30 U.S.C. 21a is to  
12 foster and encourage private enterprise in the development of economically sound and stable  
13 domestic mining, minerals, metal, and mineral reclamation industries; and

14 **WHEREAS** the United States District Court for the District of Alaska found that the

1 decision of the United States Army Corps of Engineers to allow the disposal of tailings from  
 2 the proposed Kensington Mine into Lower Slate Lake is consistent with the requirements of  
 3 the Clean Water Act; and

4 **WHEREAS** the United States Court of Appeals for the Ninth Circuit stated in an  
 5 order issued in *Southeast Alaska Conservation Council v. United States Army Corps of*  
 6 *Engineers*, Case No. 06-35679, that the court intends to reverse and vacate the Record of  
 7 Decision authorizing the use of Lower Slate Lake as a disposal facility, and remand the case  
 8 to the district court with instructions to enter summary judgment in favor of Southeast Alaska  
 9 Conservation Council; and

10 **WHEREAS** the United States Court of Appeals for the Ninth Circuit has  
 11 demonstrated a pattern of antidevelopment decision making that has injured the people of this  
 12 state, and it is anticipated that the court will continue that pattern into the foreseeable future;

13 **BE IT RESOLVED** that the Alaska State Legislature encourages Coeur Alaska, Inc.,  
 14 to pursue all legal options, including an appeal to the United States Supreme Court, to resolve  
 15 the issues presented in *Southeast Alaska Conservation Council v. United States Army Corps*  
 16 *of Engineers*, Case No. 06-35679, on behalf of itself and consistent with the state's efforts to  
 17 enforce its rights as a state over its resources; and be it

18 **FURTHER RESOLVED** that the Alaska State Legislature respectfully requests the  
 19 United States Court of Appeals for the Ninth Circuit to adjudicate those matters that come  
 20 before the court in a fair and impartial manner so that the state's natural resources may be  
 21 developed in a timely and lawful manner;  VIA ELECTRONIC TRANSMISSION

22 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President  
 23 of the United States; the Honorable Richard B. Cheney, Vice-President of the United States  
 24 and President of the U.S. Senate; the Honorable Nancy Pelosi, Speaker of the U.S. House of  
 25 Representatives; the Honorable Mary M. Schroeder, Chief Judge, United States Court of  
 26 Appeals for the Ninth Circuit; the Honorable Arnold Schwarzenegger, Governor of  
 27 California; the Honorable Fabian Nunez, Speaker of the Assembly, California State  
 28 Assembly; the Honorable Don Perata, Senate President Pro Tem, California State Assembly;  
 29 the Honorable Ted Kulongoski, Governor of Oregon; the Honorable Peter Courtney, Senate  
 30 President, Oregon State Legislature; the Honorable Jeff Merkley, Speaker of the House,  
 31 Oregon State Legislature; the Honorable Chris Gregoire, Governor of Washington; the

1 Honorable Frank Chopp, Speaker of the House, Washington State Legislature; the Honorable  
 2 Brad Owen, Lieutenant Governor and Senate Speaker, Washington State Legislature; the  
 3 Honorable Janet Napolitano, Governor of Arizona; the Honorable Timothy S. Bee, Senate  
 4 President, Arizona State Legislature; the Honorable Jim Weiers, Speaker of the House,  
 5 Arizona State Legislature; the Honorable Brian A. Schweitzer, Governor of Montana; the  
 6 Honorable Mike Cooney, Senate President, Montana State Legislature; the Honorable Scott  
 7 Sales, Speaker of the House, Montana State Legislature; the Honorable C. L. "Butch" Otter,  
 8 Governor of Idaho; the Honorable Jim Risch, Lieutenant Governor and Senate President,  
 9 Idaho Legislature; the Honorable Lawrence Denney, Speaker of the House, Idaho  
 10 Legislature; the Honorable Jim Gibbons, Governor of Nevada; the Honorable Brian Krolicki,  
 11 Lieutenant Governor and Senate President, Nevada Legislature; the Honorable Barbara  
 12 Buckley, Speaker of the House, Nevada Legislature; the Honorable Linda Lingle, Governor of  
 13 Hawaii; the Honorable Colleen Hanabusa, Senate President, Hawaii State Legislature; the  
 14 Honorable Calvin K. Y. Say, Speaker of the House, Hawaii State Legislature; the Honorable  
 15 Felix P. Camacho, Governor of Guam; the Honorable Mark Forbes, Senate Speaker, Guam  
 16 Legislature; the Honorable Madeleine Z. Bordallo, U.S. Representative from Guam; the  
 17 Honorable Benigno R. Fitial, Governor of the Northern Marianas; the Honorable Joseph M.  
 18 Mendiola, Senate President, Saipan and Northern Islands Legislative Delegation; the  
 19 Honorable Oscar M. Babauta, Speaker of the House, Saipan and Northern Islands Legislative  
 20 Delegation; the Honorable Senator Pete P. Reyes, Chairman, Saipan and Northern Islands  
 21 Legislative Delegation; the Honorable Representative Ramon A. Tebuteb, Vice-Chairman,  
 22 Saipan and Northern Islands Legislative Delegation; the Honorable Jeff Bingaman, Chair of  
 23 the U.S. Senate Committee on Energy and Natural Resources; the Honorable Nick J. Rahall  
 24 II, Chair of the U.S. House Committee on Natural Resources; the Honorable Sarah Palin,  
 25 Governor of Alaska; and the Honorable Tom Irwin, Commissioner, Department of Natural  
 26 Resources; and the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S.  
 27 Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska  
 28 delegation in Congress.

↓  
 AND COVER ALASKA, INC.

# 1 pg 2, lines 9-12

# 2 pg 2, lines 17-21

+ Title language  
pg 1, line 4

# 3 pg 2, line 22

insert

# 4 pg 2, line 26, Hon. Arnold

↓  
pg 3, line-delegation

# 5 pg 3, line 28

insert

Y3

Amendment #1 passed

HJR 17 - Kensington Mine -

Amendment #1

Pg. 2, line 9

line 12 (end of that)

Amendment #1

~~(Section) Amendment #2 - passed~~

~~line 17 — : and be (.)~~

~~line delete 18-24~~

amended #2

(Outlier) page 1 - conforming language in the Title.

line 4 incline the  
↳ line 7 (thru. banner)

2/3

Seab  
↓  
amend #3 insert "Electronic  
line 22 - sent / to transmission

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Amend. #4

Conforming to the resolution  
would not be sending to

~~How~~

1 "delete reference to offer  
Pg 2 line 26 (Honorable

Pg 3 - line 22 (delegation)

3/3

amendment #5

Cover Alaska should also  
be a recipient

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HJR 17 —

# FISCAL NOTE

**STATE OF ALASKA**  
**2007 LEGISLATIVE SESSION**

Fiscal Note Number: HJR017-OOG-LGO-4-25-07  
 Bill Version: HJR 17  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Encouraging Coeur Alaska, Inc. to pursue all legal options to resolve issues in SE AK Cons. Cnl. v. US Army Corps of Eng...  
 Sponsor: Representatives Johnson and Johansen  
 Requester: House Resources Committee

Dept. Affected: OOG  
 RDU: Office of the Lt. Governor  
 Component: Office of the Lt. Governor  
 Component No.: 11

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This resolution will have no fiscal impact on the Office of the Lt. Governor.

Prepared by: Gail Fenumia, Asst. Administrative Director  
 Division: Division of Administrative Services  
 Approved by: Jim Merriner, Chief of Staff  
 Agency: Office of the Lt. Governor

Phone 465-3885  
 Date/Time 4/25/2007, 10:30am  
 Date 4/25/2007



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HJR 17

-CITE-

30 USC Sec. 21a

01/03/05

-EXPCITE-

TITLE 30 - MINERAL LANDS AND MINING

CHAPTER 2 - MINERAL LANDS AND REGULATIONS IN GENERAL

-HEAD-

Sec. 21a. National mining and minerals policy; "minerals" defined;  
execution of policy under other authorized programs

-STATUTE-

The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

For the purpose of this section "minerals" shall include all minerals and mineral fuels including oil, gas, coal, oil shale and

HJR 17

uranium.

It shall be the responsibility of the Secretary of the Interior to carry out this policy when exercising his authority under such programs as may be authorized by law other than this section.

-SOURCE-

(Pub. L. 91-631, title I, Sec. 101, formerly Sec. 2, Dec. 31, 1970, 84 Stat. 1876; Pub. L. 104-66, title I, Sec. 1081(b), Dec. 21, 1995, 109 Stat. 721; renumbered title I, Sec. 101, Pub. L. 104-325, Sec. 2(1), (2), Oct. 19, 1996, 110 Stat. 3994.)

-MISC1-

#### AMENDMENTS

1995 - Pub. L. 104-66 in last par. struck out at end "For this purpose the Secretary of the Interior shall include in his annual report to the Congress a report on the state of the domestic mining, minerals, and mineral reclamation industries, including a statement of the trend in utilization and depletion of these resources, together with such recommendations for legislative programs as may be necessary to implement the policy of this section."

#### SHORT TITLE

Section 1 of Pub. L. 91-631 provided: "That this Act [enacting this section] may be cited as the 'Mining and Minerals Policy Act of 1970'."



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Presented by: Mayor Botelho  
and Assemblymember Sanford  
Introduced: 04/02/2007  
Drafted by: J.W. Hartle

**RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2399**

**A Resolution Urging a Negotiated Settlement of the  
Kensington Gold Mine Litigation.**

WHEREAS, the Kensington gold mine project, with an annual construction payroll of 20 million dollars, currently employs more than 400 people, many of them Juneau and Southeast Alaska residents; and

WHEREAS, the Southeast Alaska Conservation Council, Sierra Club, and Lynn Canal Conservation brought litigation against the Army Corps of Engineers and the United States Forest Service because of concerns regarding the proposed tailings management at the mine; and

WHEREAS, the Kensington gold mine is vitally important to the economy of Juneau; and

WHEREAS, Coeur Alaska, and the parties bringing the litigation, are acting in good faith, and have previously tried to mediate a mutually acceptable settlement; and

WHEREAS, Berners Bay provides an important environmental and recreational resource for the community of Juneau, and the concerns of the conservation community are substantial and not frivolous; and

WHEREAS, a panel of the United States Court of Appeals for the Ninth Circuit has indicated that it intends to rule that "in issuing its permit to Coeur Alaska for the use of Lower Slate Lake as a disposal site, the Corps [of Engineers] violated the Clean Water Act."

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NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

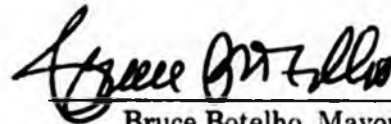
**Section 1.** That the Assembly of the City and Borough of Juneau strongly encourages Coeur Alaska, Inc., Southeast Alaska Conservation Council, the Sierra Club, and Lynn Canal Conservation to return to mediation to achieve a settlement acceptable to all parties to the litigation.

**Section 2.** That, in encouraging mediation, the Assembly offers the City and Borough's resources to assist the parties in resolving their disputes amicably. These resources include identification of an appropriate mediator or facilitator, and coordination of meeting times and places.

**Section 3.** That, if requested by the parties, the City and Borough of Juneau will assist the negotiations in any appropriate way.

**Section 4. Effective Date.** This resolution shall be effective immediately upon adoption.

Adopted this 2<sup>nd</sup> day of April, 2007.



Bruce Botelho, Mayor

Attest:



Laurie J. Sica, Clerk



# RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

April 16, 2007

HJR 17

The Honorable Sarah Palin  
Office of the Governor  
P.O. Box 110001  
Juneau, AK 99811-0001

Dear Governor Palin:

The Resource Development Council is writing to request that your administration initiate a collaborative effort between Coeur Alaska, the Southeast Alaska Conservation Council, (SEACC), the Sierra Club and other involved interests to encourage settlement of the Kensington Mine lawsuit, and to determine the best solution for disposal of tailings from the mine.

Coeur Alaska has been working with state and federal agencies, local businesses, fishermen, environmental groups and the citizens of Juneau to develop an environmentally-responsible mine which will help expand the local economy. The approved plan at Kensington reflects the collective expertise of dozens of independent scientists and engineers whose work went into more than 900 studies conducted over the past ten years. Throughout this process, the best method of tailings disposal was identified and it is reflected in the approved and permitted plan.

Coeur Alaska moved forward with construction activities in 2005 only after it obtained nearly 60 permits in total. Moreover, construction followed after exhaustive public input and after the company incorporated additional protections and conditions into the mine plan. The U.S. District Court of Alaska validated the Kensington permits by dismissing an earlier lawsuit.

The company has demonstrated its commitment to this project by completing 70% of construction, employing 400 workers, and has plans to employ approximately 225 people each year during operations for the estimated ten-year mine life with an estimated \$16 million annual payroll and benefits.

Coeur Alaska has recently been informed that the Ninth Circuit Court of Appeals intends to direct the U.S. District Court to reverse its decision on upholding the Clean Water Act Section 404 permit issued by the U.S. Army Corps of Engineers. If the court issues this final decision, the current litigation will have effectively stopped the project and taken away what is truly the most practicable and environmentally-sound tailings storage facility plan.

Founded 1975

Executive Director

Jason W. Brune

2006-2007 Executive Committee

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Rich Rogers, Sr. Vice President

Wendy Lindskoog, Vice President

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Kenneth Sheffield

Keith N. Silver

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Jeanne St. John

John L. Sturgeon

Jim Taro

Cam Tushy

Ex-Officio Members

Senator Ted Stevens

Senator Lisa Murkowski

Congressman Don Young

Governor Sarah Palin

Coeur Alaska has expressed its desire to collaborate with the environmental groups involved in this lawsuit in order to come up with a reasonable resolution that would allow this project to move forward. RDC requests that you facilitate all involved parties coming to the table to discuss settling this issue outside of the courts.

Governor, your direct participation in the process can result in making Kensington a reality. We appreciate your expedient consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason W. Brune", with a long horizontal flourish extending to the right.

Jason W. Brune  
Executive Director



# ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • [www.alaskaminers.org](http://www.alaskaminers.org)

April 27, 2007

Honorable Craig Johnson  
Alaska State House  
Capitol Building  
Juneau, AK 99801

RE: House Joint Resolution 17, Support for Kensington Gold Mine

Dear Representative Johnson,

The Alaska Miners Association supports House Joint Resolution 17 which is in support of the Kensington Gold Mine.

Coeur Alaska has worked for more than two decades exploring and working on the permitting process for the Kensington Mine. By the time the first Environmental Impact Statement was completed, the gold price had decreased to the point where the project was not economically feasible. Coeur then went back to the drawing board and after several years worked its way through a 1<sup>st</sup> Supplemental EIS. But as happened previously, the gold price had dropped further and the project was still not feasible. Coeur then went back again and redesigned the project and completed a 2<sup>nd</sup> Supplemental EIS.

Before beginning on the 2<sup>nd</sup> SEIS, Coeur purchased rights to other lands in the area and although the new plan significantly decreased the production level, it made several improvements in mine layout, facilities and many of the approaches previously utilized. These changes resulted in both improvements to the environment and lowered the cost of production. The 2<sup>nd</sup> SEIS specifically addressed many of the issues raised by the Southeast Alaska Conservation Council (SEACC). For each of the EISs, Coeur made commitments to SEACC which built on previous promises, without going back.

None the less, SEACC appealed the Record of Decision (ROD) to the District Court and the Court affirmed the ROD as written. However, SEACC then appealed the ROD to the 9<sup>th</sup> Circuit Court of Appeals and that court overturned the decision of the District Court.

HJR-17 encourages Coeur Alaska to appeal the 9<sup>th</sup> Circuit ruling to the U.S. Supreme Court where we believe that Court would rule in favor of the EPA and Corps of Engineers permits and the ROD. It is common knowledge that the U.S. Supreme Court often overturns decisions of the 9<sup>th</sup> Circuit and we believe that the decision in this case will be another one of them.

The problems in the 9<sup>th</sup> Circuit are legendary and have been a national disgrace for decades. Our Alaska Senators have filed numerous bills over the years to divide the 9<sup>th</sup> Circuit into two courts. Senators Murkowski and Stevens, along with Senator Ensign (NV) have again introduced legislation to split the 9<sup>th</sup> Circuit which now encompasses 20% of the U.S. population.

We urge that this bill be passed and enacted at the earliest possible date.

Sincerely,

Steven C. Borell, P.F.  
Executive Director



# Southeast Alaska Conservation Council

SEACC 419 6th Street, Suite 200, Juneau, AK 99801  
(907) 586-6942 phone • (907) 463-3312 fax  
[www.seacc.org](http://www.seacc.org) • [info@seacc.org](mailto:info@seacc.org)

Representative Craig Johnson  
State Capitol, Room 126;  
Juneau, AK 99801-1182

Dear Representative Craig Johnson;

I would like to thank you once again for the opportunity to testify yesterday on HJR 17.

The Kensington Mine is an important topic that relates to many relevant issues that we Alaskans are faced with, including the management of our clean water - the heart and soul of our fishing, recreation, and tourism industries. For this reason, I appreciate the lengthy discussion the committee had on this resolution.

There were several questions that were asked during the hearing that I would like to follow up on or clarify:

1.) During the testimony, I cited reports by Jim Kuipers, P.E., and geochemist Ann Macst, Ph.D., that analyzed water quality predictions and outcomes at metal mines permitted in the United States during the last 25 years. These first-of-a-kind reports, "Comparison of Predicted and Actual Water Quality at Hardrock Mines," and "Predicting Water Quality Problems at Hardrock Mines: Methods and Models, Uncertainties, and State-of-the-Art," found that faulty water quality predictions, mitigation measures and regulatory failures result in the approval of mines that create significant water pollution problems. Despite assurances from government regulators and mine proponents that mines would not pollute clean water, researchers found that 76 percent of studied mines exceeded water quality standards, polluting rivers, and groundwater with toxic contaminants, such as lead, mercury, arsenic and cyanide, and exposing taxpayers to huge cleanup liabilities. The first link below will provide you with a white paper summary of these 2 critical reports, while the second link will take you to the full reports themselves.

1. <http://www.carthworksaction.org/publications.cfm?pubID=213>

2. [www.mine-aid.org/predictions](http://www.mine-aid.org/predictions).

I urge you to look critically at the objective findings of these 2 reports authored by a highly-qualified, experienced mining engineer and a Ph.D. geochemist. These reports have great relevance for how mining is conducted in the state of Alaska.

2.) Representative Johnson asked what mines SEACC has opposed. I mentioned our positions on the Kensington Mine and Greens Creek Mine, but I failed to mention our past involvement in

ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • ALASKANS FOR JUNEAU • CHICHAGOF CONSERVATION COUNCIL, Tenakee  
• FRIENDS OF BERNERS BAY, Juneau • FRIENDS OF GLACIER BAY, Gustavus • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP SIERRA CLUB • LOWER CHATHAM CONSERVATION SOCIETY, Port Alexander • LYNN CANAL CONSERVATION, Haines • NARROWS CONSERVATION COALITION, Petersburg • LISIANSKI INLET RESOURCE COUNCIL, Pelican • PRINCE OF WALES CONSERVATION LEAGUE, Craig • SITKA CONSERVATION SOCIETY • TONGASS CONSERVATION SOCIETY, Ketchikan • TAKU CONSERVATION SOCIETY, Juneau • WRANGELL RESOURCE COUNCIL • YAKUTAT RESOURCE CONSERVATION COUNCIL

U.S. Borax's Quartz Hill project in Misty Fjords National Monument. In the 1980's and early 90's we opposed this open pit project. The tailings and waste rock would have largely filled the Wilson Arm Fjord and some surrounding valleys and salmon producing streams and rivers. Ultimately, this project was not pursued.

SEACC is also involved with mining issues in British Columbia within the Stikine and Taku River Watersheds, including the Tulsequah Chief Mine Project near the Taku River. The Tulsequah Chief Mine, like other Canadian mining developments in the Taku and Stikine Watersheds, has the potential to pollute Southeast Alaska's best salmon river and will provide little to no economic benefit to Southeast Alaska. The Taku River is usually Southeast Alaska's most productive salmon river. We are working hard to ensure that these mining developments do not degrade our economically important wild salmon.

If you would like more details on the positions SEACC has taken on mining projects, or facts on the mining projects themselves, feel free to contact me.

3.) Representative Guttenberg asked what the company's response was to our 2002 warning that the plan to dump tailings into a lake violated the Clean Water Act. Neither the company nor the USDA Forest Service responded directly to this warning. As a result, we reiterated the statement that the tailings disposal plan violated the law in our comments on the Environmental Impact Statement and in our appeal of the Forest Service's Record of Decision for the mine.

4.) Representative Gatto asked how deep Lower Slate Lake is. Lower Slate Lake is about 20 acres in size and is about 40-50 feet deep.

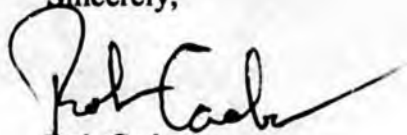
5.) Representative Gatto asked how the water coming out of Lower Slate Lake would be treated. The Kensington Gold Project Supplemental Environmental Impact Statement discusses this further (Section 2, Page 28):

*Up to 1,300 gpm (gallons per minute) would be pumped from a clear portion of the tailings TSF [Tailings Storage Facility, a.k.a Lower Slate Lake] Approximately 100 gpm of this flow would be recycled to the mill, while up to 1,200 gpm would flow into a reverse osmosis treatment system for additional solids and metal removal. The reverse osmosis system would involve high-pressure flow through a permeable membrane, where high-quality water would be separated from remaining impurities.*

6.) It was stated that dry stack tailings may not be economically feasible for the Kensington Mine. There is no question that lake dumping is cheaper for the company, but I would like to note that the company pursued and fully permitted a dry stack tailings facility in 1998, when gold was at a significantly lower price than it is now. If it was feasible then, one would think it would be feasible now that gold is \$673 an ounce. Further, it is not appropriate for the State of Alaska to be making economic feasibility predications for private corporations. It is the State's job to ensure that development of our natural resources is done in a way that is beneficial to all Alaskans. It is important that development at the Kensington be done legally, safely, and in a way that protects our clean water.

If you have any further questions feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Cadmus". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Rob Cadmus

Water Quality and Mining Organizer

Southeast Alaska Conservation Council

419 Sixth Street, Suite 200, Juneau, AK 99801

907-586-6942



# Southeast Alaska Conservation Council

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## Testimony of Rob Cadmus, Water Quality and Mining Organizer Southeast Alaska Conservation Council before the Alaska House Resources Committees Juneau, Alaska April 30, 2007

Good afternoon, my name is Rob Cadmus. I am the Water Quality and Mining Organizer for SEACC, the Southeast Alaska Conservation Council. SEACC is a coalition of 17 volunteer citizen conservation groups in thirteen communities across Southeast Alaska, from Ketchikan to Yakutat. Our mission is to protect the extraordinary resources of Southeast Alaska while ensuring their wise and sustainable use.

I want to thank you all for the opportunity to testify on House Joint Resolution 17. There are important issues at stake with the Kensington Mine- issues of jobs and the responsible use of our resources- and the more broadly and fully they are understood, the better we, Alaskans, can make wise decisions regarding them.

SEACC has actively worked on the Kensington Mine Project since its exploration phase 2 decades ago. Since then, we have watched it go through several different designs and two full permitting processes. In 1998, Coeur received all necessary permits for a project that ultimately the corporation chose not to pursue. Instead, it redesigned the mine and reinitiated the review and permitting process to arrive at the current mine proposal. SEACC has participated at every step of this process.

SEACC warned Coeur Alaska and the agencies that its tailings disposal design was illegal 4 ½ years ago. Coeur's plan to dump chemically processed tailings into a lake is a clear violation of the Clean Water Act, they put our Clean Water at risk, and could set a dangerous precedent of using our lakes and streams as mine waste dumps.

Unfortunately, Coeur chose to ignore our warnings. Instead, it gambled by betting that it could successfully roll back a generation of settled law and that no citizen would step forward to defend our right to clean water.

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Coeur lost its gamble. Its job now is to redesign the Kensington Mine so that it's legal and fully protects the waters and resources of Berners Bay.

Alternatives to dumping tailings into a lake exist. In 1998, Coeur had all the necessary permits for Dry Stack Tailings facility. It is the same method tailings disposal the Greens Creek Mine and Pogo Mine uses. It is the method that SEACC has stated that it prefers for the Kensington.

Our state's constitution requires that development of our natural resources benefits all Alaskans. There is little value to this state, and no value to the country in the long run, if we do not do it right at the Kensington. Cutting corners today will result in larger problems in the future.

This case will impact the way we care for our clean water throughout the nation, and because the United States is often a model for other countries, it could influence how mines in other parts of the world are managed.

It is important to remember the legacy of mining is not a good one. Too many people and too many communities have been devastated by the toxicity of mine wastes to take lightly what Coeur proposed to do. As we have said since the early days of this mine, it is important to do it right.

I would encourage you all to use House Joint Resolution 17 in a way that would meet the constitutional mandate that development be done for the benefit of all Alaskans. Encourage Coeur Alaska to redesign its tailings disposal plan so that it is legal and fully protects our clean water.

Thank you for this opportunity to testify.

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## Sponsor Statement

### House Joint Resolution 17

**"Encouraging Coeur Alaska, Inc., to pursue all legal options to resolve the issues presented in Southeast Alaska Conservation Council v. United States Army Corps of Engineers on behalf of itself and consistent with the state's efforts to enforce its rights as a state over its resources; and requesting the United States Court of Appeals for the Ninth Circuit to adjudicate those matters that come before the court in a fair and impartial manner so that the state's natural resources can be developed in a timely and lawful manner."**

House Joint Resolution 17 encourages Coeur Alaska, the company developing the Kensington Gold Mine north of Juneau, to pursue all legal options to overturn the forthcoming US 9<sup>th</sup> Circuit Court of Appeals ruling that will halt construction of this valuable mine project.

- Coeur Alaska has nearly 60 environmental and regulatory permits in place for the Kensington Gold Mine and a demonstrated commitment to responsible and environmentally sound management of its mining projects
- The Kensington Gold Mine tailings disposal plan was approved by the US Army Corps of Engineers, found to be in compliance with the Clean Water Act, and upheld by the federal district court of Alaska, only to be overturned by the US 9<sup>th</sup> Circuit Court of Appeals
- The policy of the federal government as expressed in the United States Code is to "foster and encourage private enterprise in the development of economically sound and stable domestic mining" (30 USC 21a)
- The 9<sup>th</sup> Circuit Court of Appeals has demonstrated a pattern of antidevelopment decision making in regards to Alaska and its rights to develop its resources

In light of these facts, HJR 17 also asks that the US 9<sup>th</sup> Circuit Court of Appeals adjudicate this and future cases in a fair and impartial manner so that Alaska's natural resources may be developed in a timely and lawful manner.

Upon passage, copies of HJR 17 will be sent to President Bush, Vice President Dick Cheney, Speaker of the House Nancy Pelosi, 9th Circuit Chief Judge Mary Schroeder, and the governors and legislative leaders of all of the Western U.S. states and territories.