



CENTRAL COUNCIL  
*Tlingit and Haida Indian Tribes of Alaska*  
Office of the President  
Andrew Hope Building  
320 West Willoughby Avenue • Suite 300  
Juneau, Alaska 99801-1726

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July 28, 2009

Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

RE: Request for Review of EPA Region X Failure to Honor Executive Order 13175

Dear Administrator Jackson:

The Central Council of Tlingit & Haida Indian Tribes of Alaska is a federally recognized Indian Tribe of nearly 27,000 tribal citizens, most of whom live in Southeast Alaska. We are headquartered in Juneau, Alaska.

For many years the Central Council has requested that Region X of the U.S. Environmental Protection Agency consult with us in accordance with the U.S. President's Executive Orders 13175 and 13084 before making decisions that affect our lives. Our requests have been to little or no avail.

Since the early summer of 1997 we have requested and held meetings in Juneau, Alaska, Seattle, Washington and Washington DC to make our requests for consultation known and honored by various federal officials, including EPA Regional Administrators and staff. Michael Gearheard, from Region X, who recently signed the July 13, 2009 letter to the Army Corps of Engineers requesting new studies on the Kensington Gold Mine, has been a participant in those meetings since 1997.

Despite our repeated requests, Mr. Gearheard did not notify us of the decision to ask for these studies until after he had sent the letter. We were not even told that these discussions regarding new studies were occurring. That is not consultation, by any definition of the word. What Mr. Gearheard did tell us in a brief phone answering machine message on July 14 near the end of the business day is that this decision was reached at the highest levels of the EPA in Washington DC.

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On July 13 we met with Suzanne Schartz, Robert K. Wood and Dave Evans in Washington DC. All of our concerns and desire for information were made known to them. We asked specific questions regarding EPA intentions but we were not told anything about the letter from Region X being signed that very day. That is not consultation, by any definition of the word.

The Kensington Gold Mine is one of the projects we asked for specific consultation on as it affects hundreds of our tribal citizens and many of our rural communities. Despite decades of effort and education achievements by our tribal citizens, our working age adults continue to suffer from a 62% overall unemployment rate. In some of our rural villages it reaches 87%. Our requests and situation are all well-known to Mr. Gearheard, Ms. Schwartz, Mr. Wood, Mr. Evans, prior Regional Administrators and Region X EPA staff. We have made this information known to national office EPA staff as well.

Our tribal citizens were the beneficiaries of a highly successful voluntary affirmative action program by Kensington Mine to recruit, train and hire Alaska Natives, other minorities and other Alaskan residents. Until the litigation halted construction, hundreds of our tribal families enjoyed support from family members working at the Kensington Mine.

Since construction was halted, our tribal citizens have been without work as there is very little other family wage job opportunity available. Our youth suicide rates have increased as despair for their future has set in and our Elders have watched their children and grandchildren leave them because there is simply so little employment, let alone family wage employment, available to us.

I want to assure you that we are not trading jobs for pollution. Our tribal Natural Resources staff has participated in the environmental review process from the beginning and our comments are part of the public record. Because this mine is located in our ancestral homelands, our Elders have met with mining company and agency officials and discussed every aspect of the mining plans. We are confident that all of our cultural, environmental and subsistence concerns have been adequately addressed.

If we thought this mine would harm our traditional way of life or harm our ancestral lands and resources, we would be its most vigorous opponents. But we are not, we agree with and support the permit previously issued which approved the use of the Lower Slate Lake Tailings Option, a decision recently upheld by the U.S. Supreme Court.

In September 2008, after continuing delays in permitting the paste tailings option, we asked for a consultation meeting in our tribal building to discuss the delays and to identify issues and procedures to resolve them. Participating in the consultation were members of the Army Corps of Engineers, U.S. Forest Service, Alaska Department of Natural Resources and Region X EPA members Mr. Gearheard, Rick Parkens, Cindi Godsey, Chris Meade and Michelle Davis. Participating for the Central Council were Gordon Jackson, Harold Martin, Randy Wanamaker and myself.



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Near the end of the meeting, we asked if there was anything else that needed to be put on the table so that we could work on solutions. Imagine our surprise when Chris Mead stated that it was unlikely EPA would permit paste tailings and instead would be asking Coeur Alaska to study and go to a Dry Stack method, requiring many more months of delay. In later media interviews, EPA personnel denied making such statements. All of the meeting comments were recorded.

In view of the failure to consult as requested and in view of the contradictory statements given by Region X officials on paste tailings, we request that you as the Administrator join with us as the Tribe and ask the U.S. Justice Department to review Region X actions in this matter, to determine if the civil, political and legal rights of our tribal members and our Tribe have been violated by EPA regional officials. We likewise ask that you immediately review the foregoing conduct of EPA officials and the violations of the tribal consultation policy, and that you take immediate action to approve the Lower Slate Lake Tailings Option so that mine construction can resume right away.

Thank you. I will await your earliest reply.

Sincerely,



William E. Martin  
President

Cc: Hon. Mark Begich, U.S. Senate  
Hon. Lisa Murkowski, U.S. Senate  
Hon. Don Young, U.S. House