

OFFICE OF THE
APR 25 2007
LIEUTENANT GOVERNOR

THE ALASKA CLEAN WATER INITIATIVE

FOR AN ACT ENTITLED

“An Act to protect Alaska’s clean water.”

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section 1. Purpose. The purpose of this Act is to protect the statewide public interest in water quality by ensuring that Alaska’s waterways, streams, rivers and lakes are not adversely impacted by new large scale metallic mineral mining operations and to ensure that prospective large scale metallic mineral mining operations are compatible with the state’s interest in having clean waters.

Section 2. Protections and prohibitions affecting streams and waters.

Notwithstanding any other provision of law, a person or entity may not, for large scale metallic mineral mining purposes, engage in any activity that directly or indirectly:

(a) releases any toxic pollutant into, or causes or contributes to any toxic pollution of, any surface or subsurface water, or tributary thereto that is utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species; or that

(b) uses, releases or otherwise generates, within any watershed utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species:

(1) cyanide, or
(2) sulfuric acid, or
(3) compounds of cyanide or sulfuric acid, or
(4) other toxic agents that may be harmful directly, indirectly or cumulatively to human health or to the spawning, rearing, migration, or propagation of salmon;

(c) stores or disposes of metallic mineral mining wastes, including overburden, waste rock, and tailings that may generate sulfuric acid, dissolved metals, chemicals or compounds thereof.

(d) stores or disposes of metallic mineral mining wastes, including overburden, waste rock, or tailings in, or within 1000 feet of any river, stream, lake, or tributary thereto, that is utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species.

(e) causes acid mine drainage, heavy metals or dissolved metals to enter directly into, or indirectly by subsurface water into, any river, stream, lake, or tributary thereto, that is utilized by humans for drinking water or by salmon in the spawning, rearing, migration, or propagation of the species.

Section 3. Scope. Section 2 of this Act does not apply to existing large scale metallic mineral mining operations that have received all required federal, state, and local permits, authorizations, licenses, and approvals on or before the effective date of this Act.

Section 4. Savings Clause. It is the intention of the people of Alaska that each of the provisions of this Act or any portion thereof shall be independent of

each of the others, so that the invalidity of any provision or portion thereof shall not affect the validity of the remaining provisions or portions thereof, and that all valid provisions and portions thereof shall be effective irrespective of the invalidity of any other provision or portion thereof. Upon enactment, the state shall take all actions necessary to ensure the maximum enforceability of this act.

Section 5 Definitions.

a) "large scale metallic mineral mining operation" means a mining operation that extracts metallic minerals or deposits and utilizes or disturbs in excess of 640 acres of lands or waters, either alone or in combination with adjoining, related or concurrent mining activities or operations. This term includes all components of a mining project, including but not limited to:

(i) mining, processing, the treatment of ore in preparation for extraction of minerals, and waste or overburden storage or disposal;

(ii) any construction or operation of facilities, roads, transmission lines, pipelines, separation facilities, and other support and ancillary facilities;

(iii) any mining or treatment plant or equipment connected with the project, underground or on the surface, that contributes or may contribute to the extraction or treatment of metallic minerals or other mineral product; and

(iv) any site of tunneling, shaft-sinking, quarrying, or excavation of rock for other purposes, including the construction of water or

roadway tunnels, drains or underground sites for the housing of industrial plants or other facilities.

(b) "toxic pollutants" means those substances or substance combinations, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into a human, fish or wildlife organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, malignancy, behavioral abnormalities, abnormalities, or malfunctions in growth, development, behavior, or reproduction, cancer, genetic mutations, physiological malfunctions or physical or physiological abnormalities or deformations in such organisms or their offspring; "toxic pollutants" includes the following substances, and any other substance identified as a toxic pollutant under 33 U.S.C. 1317(a):

2-chlorophenol; 2,4-dichlorophenol; 2,4-dimethylphenol; acenaphthene; acrolein; acrylonitrile; Aldrin/Dieldrin; ammonia; antimony; arsenic; asbestos; benzene; benzidine; beryllium; cadmium; carbon tetrachloride; Chlordane; chlorinated benzenes; chlorinated naphthalene; chlorinated ethanes; chlorine; chloroalkyl ethers; chloroform; chlorophenols; chlorophenoxy herbicides; chromium; copper; cyanide; DDT; Demeton; dichlorobenzenes; dichlorobenzidine; dichloroethylenes; dichloropropane; dichloropropene; dinitrotoluene; diphenylhydrazine; Endosulfan; Endrin; ethylbenzene; fluoranthene; Guthion; haloethers; halomethanes; Heptachlor; hexachlorobutadiene; hexachlorocyclohexane; hexachlorocyclopentadiene; isophorone; lead; Lindane; Malathion; mercury; methoxychlor; Mirex; naphthalene; nickel; nitrobenzene; nitrophenols; nitrosamines; p-dioxin; Parathion; PCBs; pentachlorophenol; phenol; phthalate esters; polynuclear aromatic hydrocarbons; selenium; silver; sulfuric acid, tetrachloroethylene; thallium; toluene; Toxaphene; trichloroethylene; vinyl chloride; and zinc; "

Section 6. Effective Date. This Act takes effect 90 days after enactment.