



**NOTICE OF VIOLATION**

Failure to Comply with Conditions under 18 AAC 72.500; 18 AAC 72.510; 18 AAC 72.600; and 18 AAC 72.200

Mineral Services, Inc.  
C/o Hunz & Hunz Enterprises  
Mr. David Hunz  
P.O. Box 185  
Skagway, AK 99840

Enforcement Tracking No: 2015-R0347

Dear Mr. Hunz:

The Department alleges that beginning on or about March 5, 2014 (date of complaint received by ADEC) at 116 Ore Terminal Rd., Skagway, AK 99840, the Skagway Ore Terminal did unlawfully fail to comply with the conditions of the Alaska Administrative Code. Such action is in violation of 18 AAC 72.500 Failure to obtain permit coverage, 18 AAC 72.510 Sludge Disposal, 18 AAC 72.600 Application for Department Approval, and 18 AAC 72.200 Domestic Wastewater Application for Approval.

An ADEC inspection on March 31, 2015 confirmed that stormwater, gray water, equipment wash water and potable water from a hose are all being routed to four infiltration galleries located at the Skagway Ore Terminal (SOT). There are no records of discharge permit applications for the SOT on file with ADEC.

The discharge of stormwater, gray water, equipment wash water and the potable water from the hose is in violation of the proper operation and maintenance of an institutional controls on the property required by the Contaminated Sites Program, as authorized in Title 18 of Alaska's Administrative Code (AAC) of regulations, Chapter 75.375. Restrictions were established in Compliance Order By Consent No. 88-11-09-299-01 and Compliance Order By Consent No. 88-11-09-299-02 dated September, 1989, with the ore terminal owner/operators to limit, prohibit, and protect against activities that interfere with improvements designed to encapsulate or control exposure to hazardous levels of residual lead contamination in subsurface soil through excavation or leaching of contamination into groundwater. In accordance with 18 AAC 75.375, the institutional control property restrictions were agreed upon by the landowner, Municipality of Skagway, as stated in City of Skagway Resolution 89-16R dated August 8, 1989 pertaining to metals contamination cleanup on public lands.

The following are the alleged violations at the SOT:

- 1) Failure to obtain permit coverage.
  - a) 18 AAC 72.500 states that “In addition to the plan approval required by 18 AAC 72.600, a person who disposed of nondomestic wastewater into or onto land, surface water, or groundwater in this state must have a permit issued by the department under this chapter or under 18 AAC 83 for that disposal.”
- 2) Sludge Disposal.
  - a) 18 AAC 72.510 states that “A person may dispose of sludge resulting from a manufacturing or production process or from a nondomestic wastewater treatment works only at a site or facility with a waste disposal permit issued by the department for that disposal.”
- 3) Application for Department Approval.
  - a) 18 AAC 72.600 states that “A person who constructs, alters, installs, modifies, or operates any part of a nondomestic wastewater treatment works or disposal system must first have written department approval of engineering plans submitted under this section.”
- 4) Domestic Wastewater Application for Approval.
  - a) 18 AAC 72.200 states ...a person must submit a plan to the department and obtain approval of that plan before constructing, installing, or modifying any part of the domestic wastewater collection, treatment, or disposal system...”

To address the violation(s) described above, the Department requires that you do the following:

- a. Redirect the stormwater, gray water, and equipment wash water to an upland area away from contaminated site.
- b. Apply for permit coverage for the discharge of stormwater, gray water, and equipment wash water.
- c. Submit a waste disposal plan for the disposal of sludge from the equipment wash facility.
- d. Submit engineering plans for approval of the domestic wastewater system.
- e. Immediately stop discharging potable water into the infiltration gallery. Submit photographic evidence that the hose has been removed.
- f. Submit a written explanation regarding the alleged release from the truck wash facility.

Please submit a Corrective Action Plan outlining the plans and timeframe for the above mentioned items no later than 4/30/2015. **Deliverables can be submitted via mail, email, or fax:**

**Attention:**  
**Shilo Williams/ ADEC**  
**410 Willoughby Ave., Ste. 303**  
**Juneau, AK 99801**  
**Shilo.williams@alaska.gov**  
**Fax: 907.465.5274**

Penalties for violation of State statutes and regulations can be quite serious. In a civil action, a person who violates or causes or permits to be violated a provision of these regulations, may be liable to the State for Substantial monetary damages under AS 46.03.760. Depending on the nature of the violation, you may also be liable for the State's response costs under AS 46.03.822, for spill penalties under AS 46.03.758-759, for administrative penalties under AS 46.03.761, or for other kinds of damages or penalties under other statutes.

In a criminal violation, a person who acts with criminal negligence may be guilty of a Class A misdemeanor. AS 46.03.790. Upon conviction, a defendant who is not an organization may be sentenced to pay a fine not exceeding \$10,000.00 and/or sentenced to a definite term of imprisonment of not more than one year. Upon conviction, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of \$500,000.00 or an amount which is three times the pecuniary damage or loss caused by the defendant to another or property of another. AS 12.55.035; each day of violation may be considered a separate violation. Alaska laws allow the State to pursue both civil and criminal actions concurrently.

Nothing in this notice shall be construed as a waiver of the State's authority or as an agreement on the part of the State to forego judicial or administrative enforcement of the above-described violation(s) or to seek recovery of damages, cost and penalties as prescribed by law. In addition, nothing herein shall be construed as a waiver of enforcement for past, present, or future violations not specifically set forth herein.

If you have additional questions, I may be contacted at (907) 465-5308, or via e-mail: [shilo.williams@alaska.gov](mailto:shilo.williams@alaska.gov)



Shilo Williams, Enforcement Officer  
Credential No. R-0275

Check One:

Personally Served

Sent by Certified Mail

# 7014 1200 0000 7457 6231

on the 03 day of April, 2015

Enclosure: Inspection Report

cc:

Amber Bennett, ADEC

Mike Solter, ADEC

Richard Cool, EPA

John Finlayson, White Pass & Yukon Route

James Hemsath, AIDEA  
Peter Hemstead, CMA  
Mayor Mark Schafer, MOS