



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Environmental  
Conservation**

DIVISION OF SPILL PREVENTION AND RESPONSE  
Prevention, Preparedness, and Response Program

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February 1, 2024

Mr. Pete Strow  
Kensington Mine  
3031 Clinton Dr. Suite 202  
Juneau, AK 99801

**Certified Mail**  
**Return Receipt Requested**  
**7018 0680 0000 8252 2719**

Subject: Kensington Tailings Johnson Creek JNU, **ADEC Spill #: 24119903101 Letter of State Interest**

Dear Mr. Strow:

This letter is to advise you that on or about January 31, 2024, a discharge occurred at or near Kensington Mine at Johnson Creek (Latitude: 58° 50' 41" N, Longitude: 135° 03' 00" W) for which you may be financially responsible. The discharge occurred when a rupture in the tailings line released an unknown amount of mining tailings into Johnson Creek, which flows into the waters of Berners Bay. Alaska Statute (AS) Title 46 authorizes the state to respond to this discharge and to take appropriate action to minimize damage to human health, safety, or welfare or to the environment.

Under AS 46.03.740, the discharge of any amount of oil into or upon the waters or land of the state is prohibited unless authorized by the Alaska Department of Environmental Conservation (department). Under AS 46.03.745, an uncontrolled release of a hazardous substance is prohibited. AS 46.04.020 and AS 46.09.020 require the immediate containment and cleanup of oil and hazardous substance releases by the person causing or permitting the release. In addition, AS 46.03.822 establishes who is financially responsible or liable for the investigation and cleanup of any release or threatened release of oil or a hazardous substance. State records indicate that you may meet one or more of the following criteria:

- caused or permitted the discharge/release [AS 46.04.020/46.09.020];
- owned or controlled the hazardous substance at the time of its release [AS 46.03.822(a)(1)];
- own(ed) or operate(ed) the property or facility from which the release occurred [AS 46.03.822(a)(2)];
- own or operate the property at which the hazardous substance came to be located [AS 46.03.822(a)(3)]; and/or
- arranged for transport, disposal or treatment of hazardous substances that were released [AS 46.03.822(a)(4)].

If you undertake response actions, they must be approved in advance by the department under 18 AAC 75.300 - 18 AAC 75.396 and the adequacy of those actions will be evaluated by Tessa Gottlob, the State On-Scene Coordinator's representative for this discharge. Response actions are adequate if they are in accord with state and federal law, including 18 AAC 75. If the department considers your response actions adequate, state involvement in the cleanup actions will be limited to approving cleanup plans, monitoring the progress of cleanup activities, and providing guidance as necessary. However, if your response actions are not satisfactory, the department may assume the

lead role in the investigation and cleanup efforts and recover these costs from the responsible party (RP).

Please be advised that AS 46.08.070 requires the department seek recovery for certain costs, including oversight activities, incurred by the state in responding to discharges.

As an RP under AS 46.03.822 or AS 46.03.760(d), you will be billed by the state at a later date for state expenditures associated with this discharge, unless the department waives all or a portion of response costs incurred by the state. Department practice is to hold billing until a 5-hour threshold is exceeded and then send a bill for all staff time related to this release in excess of 5 hours. Billable state expenditures include the direct costs of state staff time and indirect state overhead costs, as well as contractual and materials costs and interest for delayed payments. Billable state staff time includes all time spent on activities related to the incident, including site visits, response and report reviews, telephone conversations, meetings, and legal services. Failure to reimburse the state for billable oversight and response actions may result in the filing of liens against property you own, pursuant to AS 46.08.075.

Please submit an interim report regarding cleanup and sampling plans as required under 18 AAC 75.300(d). Additionally, please provide a written account of events leading up to and immediately following the incident, to include amount of product released, calculations used for the estimated release, and cleanup actions taken in immediate response to the incident.

Nothing in this letter shall be construed as a waiver of the state's authority or as an agreement on the part of the state to forego civil, criminal, or administrative enforcement of the above-described violations or to seek recovery of damages, costs, and penalties as prescribed by law. In addition, nothing herein shall be construed as a waiver of the state's enforcement authority for past, present, or future violations not specifically described in this letter.

If you believe someone else may be responsible for this discharge or if you have any questions concerning this matter, please contact me at 907-538-3948 or [tessa.gottlob@alaska.gov](mailto:tessa.gottlob@alaska.gov).

Sincerely,

DocuSigned by:



170394A47A7B45F  
Tessa Gottlob

Environmental Program Specialist

cc:

Rachael Krajewski, ADEC  
Sarah Moore, ADEC  
Cost Recovery, ADEC