



CALISTA CORPORATION
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May 11, 2022

Alaska Department of Environmental Conservation
Division of Water
Attn: Randy Bates
Wastewater Discharge Authorization Program/401 Certification
555 Cordova Street
Anchorage, AK 99501-2617
E: dec-401cert@alaska.gov

**RE: Donlin Gold Mine – CWA Section 401 Certification
Certificate of Reasonable Assurance**

Dear Mr. Bates:

Calista Corporation (“Calista”) writes to express our continuing support for the Donlin Gold Project (the “Project”). We are aware of the site-specific analysis on water quality by Donlin Gold and the continuing analysis by the Department of Environmental Conservation (“DEC”) of the State’s Water Quality Certification under Section 401 of the Clean Water Act (“CWA”). The additional water quality analysis further supports that the Project will not violate state water quality standards.

1. Calista Represents the Native Self Determination Land Interests of the YK Region

The Alaska Native Claims Settlement Act (“ANCSA”) was enacted on December 18, 1971 to settle “all land claims by Natives and Native groups of Alaska, based on aboriginal land claims.” 43 USC 1601(a). ANCSA extinguished “all aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including any aboriginal hunting or fishing rights that may exist.” 43 USC 1603(b).

In return, Alaska Natives, including those of the Yukon Kuskokwim delta region of Alaska (“YK Region”) received the right to create, own and manage ANCSA Regional Corporations and Village Corporations, and to receive all of the benefits of ANCSA through those corporations, including both economic benefits and title to a total of 44 million acres of land.

Under the authority of ANCSA, Calista¹ was established on June 1, 1972 to “function as one of the regional corporations provided for in ANCSA on behalf of the Natives within the area,” to “carry out (ANCSA’s) provisions so as to be eligible on behalf of said Natives for the benefits of the Act,” and to “promote the economic, social and personal wellbeing of the Natives within the region.” *Calista Articles of Incorporation*, June 1, 1972.

¹ Calista is a regional Alaska Native Corporation (“ANC”) established under the Alaska Native Claims Settlement Act (“ANCSA”) of 1971.

Once established, Calista received an entitlement of approximately six and half million acres of land in the YK Region, including all of the subsurface lands and approximately half of the surface lands comprising the Project. Consistent with ANCSA and Calista's original corporate purposes as established by our Elders, Calista is the steward of these lands for the benefit of our more than 35,000 Calista Shareholders, over 99% of whom are Alaska Natives with roots in the YK Region, and many of whom are also members of their respective Tribes.

Now, 50 years after its passage, Calista remains committed to achieving the promise of ANCSA by promoting the economic, social, and personal well-being of the Natives within the region by developing the Project in a manner that safeguards our culture, environment, and subsistence way of life. As the owner of the mineral resource and a key stakeholder in the environmental and economic wellbeing of the region, Calista has a strong and unique responsibility for the sustainable development of the Project. Just recently, the Calista Board of Directors, all of whom are Shareholders and Tribal members, passed a resolution by a unanimous vote confirming our commitment to the Project with the continuing mission of carrying out the promise of ANCSA and the vision of our Calista Elders "to develop this Indigenous Project in a sustainable manner that creates jobs and many economic benefits for Calista and our Shareholders, while safeguarding our culture, environment and subsistence way of life." *Calista Corporation Resolution 22-06*.

2. Calista Is Actively Engaged with Donlin to Ensure the Short and Long-Term Protections of our Lands and Way of Life.

Calista's top priority with respect to the Project is to ensure the protection of the environment to preserve our Shareholders' traditional subsistence way of life. Calista is not a distant owner, and the majority of our Shareholders live within the YK region. As the owner of the mineral resources and of the lands upon which the Project is situated, Calista takes an active role in overseeing the Project development.

As part of the development of the Project, Calista has worked with Donlin and The Kuskokwim Corporation (TKC) to maintain a well-defined process for communications, dialogue and problem-solving. This process was formalized through the Donlin Advisory Technical Review and Oversight Committee (DATROC). Community residents (largely comprised of Calista Shareholders) have an important voice and presence in the development of the project. Calista Shareholders can serve, for example, on the upcoming Subsistence Community Advisory Committee, which arose from the DATROC, and has been an important tool in educating the partners and ensuring that the Project accounts for subsistence interests and local concerns.

In regard to water quality, Calista has worked closely with Donlin to develop and implement measures to: (1) prevent the introduction of mercury and other contaminants into the air or water in the YK Region; (2) maintain stream temperatures that protect fish populations; (3) preserve fish habitat and stream flows necessary to support fishing opportunities for Calista's Shareholders and communities; and (4) protect and enhance local fisheries. Calista, as the Alaska Native Corporation responsible for these lands, has walked the proposed site, reviewed the proposed plans, and involved itself in the safeguards and protections to our lands and waters. Calista is not a passive owner here, but instead a guardian and

shepherd that ensures water and land quality will be protected. Calista strongly supports the Project and is confident that it can proceed in compliance with applicable water quality standards and in a manner that adequately protects the YK Region's natural resources.

3. The Project will comply with applicable environmental standards.

To date, every expert agency to review the Project has agreed that the Project will comply with applicable environmental standards. On August 13, 2018, the U.S. Army Corps of Engineers (the "Corps") and the Bureau of Land Management finalized a Joint Record of Decision ("ROD") approving the Project and issued a Department of the Army ("DA") permit pursuant to Section 404 of the CWA and Section 10 of the Rivers and Harbors Act. The DEC issued a Certificate of Reasonable Assurance ("Certificate") under Section 401 of the CWA on August 10, 2018, finding that the Project would not violate applicable water quality standards.²

The supplemental information on temperature and mercury that have been provided to the DEC subsequent to the ROD supports the conclusion that the Project will comply with water quality standards. This information was developed by Donlin to more thoroughly understand water quality impacts. And, the models arise from years of continuing work (with the support and encouragement of Calista) to more accurately understand the potential impacts. This site-specific work provides a more accurate and more reliable model of water quality impacts with which DEC can make its determination.

Calista is confident that the Project can proceed in an environmentally responsible manner that will not violate Alaska's water quality standards, and will work with Donlin to develop any permit conditions or regulatory benchmarks necessary to ensure the same.

If DEC considers any adverse action, modification, or other processes with respect to the Project's Certification, Calista respectfully asks that the DEC provide Calista with notice of any such action and an opportunity to consult prior to such action or process being initiated.

Quyana,

CALISTA CORPORATION



Andrew Guy
President and CEO

cc: Gene McCabe, ADEC,
James Rykema, ADEC
Calista Legal

² From Calista's perspective, the ALJ's proposed decision was flawed. Calista disagrees with the ALJ's factual findings, policy determinations, and legal conclusions. Calista is confident that the Project will adequately protect our natural resources, including by complying with applicable water quality standards.