



# American Fisheries Society

Organized 1870 to Promote the Conservation, Development and Wise Utilization of the Fisheries

GHASSAN N. RASSAM  
*Executive Director*

WILLIAM G. FRANZIN  
*President 2008-2009*

DONALD C. JACKSON  
*President Elect*

WAYNE HUBERT  
*1st Vice President*

WILLIAM L. FISHER  
*2nd Vice President*

MARY FABRIZIO  
*Past President*

27 July 2009

President Barack Obama  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear Mr. President,

The American Fisheries Society (AFS) is a professional scientific association representing 9000 scientists and professionals whose research and professional activities focus on fishery and other aquatic resources. The mission of AFS is to improve the conservation and sustainability of fishery resources and aquatic ecosystems by advancing fisheries and aquatic science and promoting the development of fisheries professionals.

As you are aware, the Corps of Engineers approved a permit application by Coeur Alaska to deposit up to 4.5 million tons of gold mine tailings from the Kensington Mine into Lower Slate Lake, Alaska, which hosts high quality fish fauna including the native Dolly Varden char and threespine stickleback. The permit was approved even though Coeur Alaska agreed in its mining permit that these two fish species would be extirpated by the waste. The U.S. Supreme Court upheld the Corps' decision because of conflicting and confounding laws and regulations governing when mine waste is treated as fill or as pollutant discharge [Coeur Alaska, Inc. vs Southeast Alaska Conservation Council]. Mine waste negatively affects water quality and freshwater ecosystems in the vicinity of mine operations throughout the nation. The science indicates the effects will be particularly severe in this case. In addition to the site-specific impacts, the Supreme Court decision sets a particularly important legal precedent that may allow other mining operations to avoid adherence with Clean Water Act water quality standards by petitioning the Corps of Engineers to redefine pollutant waste as "fill".

The devastating impacts of mine waste on receiving waters is well documented in a body of peer-reviewed scientific literature and even acknowledged by the petitioner. Given your administration's stated policy of basing policy decisions on sound science, we are obliged to point out that, in our professional opinion, this policy action will have a clear and decidedly negative impact on the receiving water body, and likely for decades after the mine is abandoned. As one pertinent example, a scientist working at one of the USEPA labs documenting the effects of gold mine waste on aquatic communities in receiving waters reported:

- a 78-100% reduction in trout and sculpin biomass downstream of mined sites;
  - a 71-100% decline in the density of trout and sculpin downstream of mined sites;
- and





## American Fisheries Society

Organized 1870 to Promote the Conservation, Development and Wise Utilization of the Fisheries

GHASSAN N. RASSAM  
*Executive Director*

WILLIAM G. FRANZIN  
*President 2008-2009*

DONALD C. JACKSON  
*President Elect*

WAYNE HUBERT  
*1st Vice President*

WILLIAM L. FISHER  
*2nd Vice President*

MARY FABRIZIO  
*Past President*

- a fundamental alteration in the stream invertebrate assemblage in sites with high levels of mining compared with unmined sites (Hughes 1985 *Environmental Management* 9:253-262).

AFS is extremely concerned with the negative effects of mine waste disposal on aquatic ecosystems, and we hope that recent approvals do not set a precedent for pending and future coal and metal mining permit applications. The preponderance of scientific evidence indicates that poorly planned and under-regulated mining has resulted in adverse effects on the water quality of thousands of stream miles across our nation. Alaska, with a large proportion of U.S. coal and metal deposits, as well as our healthiest fisheries, represents an excellent opportunity to use science-based regulatory policy to find economically and environmentally sustainable solutions to the operation of the proposed Kensington Mine and to the larger industry of natural resource-extraction. Unlike the U.S., Canada has rigorous and state-of-the-art mining regulations, whereby mining corporations must prevent releases of solids or water into surface and ground water—or pay for the pollution they cause. Likewise, AFS Policy 13 on Surface Mining encourages “diligent regulation of all surface mining by local, state, provincial, and federal governments to provide adequate protection (of) aquatic resources”.

We urge your Administration to overturn the policy of treating mine waste as the discharge of dredged or fill material and to recognize the negative effects of mining waste. We also urge the USEPA to exercise its veto power over Corps mine fill/waste permits. We strongly believe that such regulatory actions are supported by the best available science. The Nation's surface waters, and the people who depend on them for food, recreation, and income deserve nothing less than the best policy science can support.

Sincerely yours,

Gus Rassam, Executive Director

William Franzin, President



# *American Fisheries Society*

Organized 1870 to Promote the Conservation, Development and Wise Utilization of the Fisheries

GHASSAN N. RASSAM  
*Executive Director*

WILLIAM G. FRANZIN  
*President 2008-2009*

DONALD C. JACKSON  
*President Elect*

WAYNE HUBERT  
*1st Vice President*

WILLIAM L. FISHER  
*2nd Vice President*

MARY FABRIZIO  
*Past President*

C: Lisa Jackson, Administrator, USEPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460

Nancy Sutley, Chair, Council on Environmental Quality, 1600 Pennsylvania Avenue NW, Washington, DC 20500