

Dumping Mine Waste in Lakes

Coming to a lake near you?

The Kensington Mine wants to dump millions of tons of waste into our clean water.



There is an alternative.

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Before passage of the Clean Water Act in 1972, mining companies frequently dumped tailings waste in the nearest lake or river, often with catastrophic consequences for those water bodies, for fish, and for human health. Congress intended the Clean Water Act to end this practice of using lakes, rivers, and streams as waste dumps.

Now, after over 35 years of strong pollution control, our lakes and streams are again at risk. The Supreme Court's decision in *Coeur Alaska, Inc. v. Southeast Alaska Conservation Council*, No. 07-984 (June 22, 2009) undermines the Clean Water Act and allows the Kensington Gold Mine, north of Juneau, Alaska, to discharge over 200,000 gallons per day of toxic wastewater from a gold ore processing mill directly into

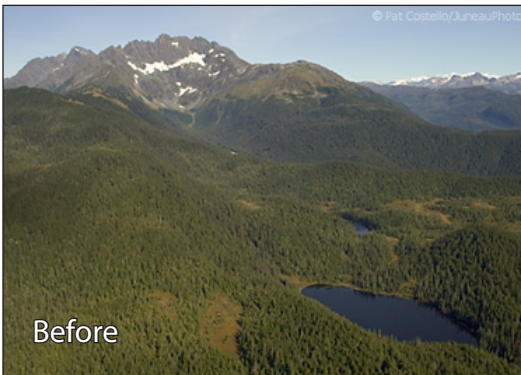
a natural lake, with the effect of killing all the lake's fish and aquatic life.

If a mining company can turn an Alaska lake into a lifeless waste dump, other polluters can potentially do the same to any water body in America. The good news is that the problem is reversible. The cause is a Bush administration rule reversing over 35 years of successful regulation under the Clean Water Act, and both President Obama and Congress have opportunities to restore the original intent of the Clean Water Act.

Bypassing Pollution Standards Saves Big \$

The practice of using our lakes and streams as waste dumps is entirely unnecessary. The growth of the nation's economy and the simultaneous great improvement in water quality since enactment of the Clean Water Act in 1972 show that clean water is good for business. For example, for the Kensington Mine at issue in *Coeur Alaska*, there is an alternative waste disposal option—a “paste tailings” facility—supported by conservation groups and EPA that would require no discharge of process wastewater into any waters. But it is significantly cheaper to simply dump mine waste into the nearest water body then to deal with the waste responsibly.

Beginning in 1975, EPA had strict pollution standards that prohibited mines from discharging chemically processed mine waste directly into water bodies. The Bush administration changed this; it changed the definition of “fill material” to allow for the disposal of waste materials.



Before



During Construction



After? Orange acid mine drainage (AMD) already during construction.

The Kensington Mine has been permitted to use this lake, Lower Slate Lake, as a mine waste dump.

This definition change allowed the destructive practices of lake dumping of tailings and mountain top removal coal mining. By siding with the Bush administration, the Court's decision allows any industrial facilities with a large component of solids in their wastewater to call the discharge "fill material" and, with an Army Corps of Engineer's permit, dump it directly into water bodies, bypassing the strict EPA effluent standards that have long governed wastewater discharge.

In its ruling, the Supreme Court decided the laws and regulations governing fill permits were conflicting and "ambiguous," and hinged its decision on the Bush administration's adoption of one internal, mid-level EPA memo, called the Regas Memo.

"The use of any river, lake, stream or ocean as a waste treatment system,' the Act's drafters stated, 'is unacceptable.'"

-Dissenting Justice Ruth Bader Ginsburg stating that the Clean Water Act was unambiguous and required compliance with the effluent limitations.

Ultimately this issue is not ambiguous laws, or protecting the environment--it is money. Waste disposal in lakes and streams is less expensive by orders of magnitude than building a treatment plant or waste storage facility. The Court's ruling reveals the need to clarify the laws that keep America's water clean.

Where is the next lake?

The massive proposed Pebble Mine in southwest Alaska is the next immediate concern. Pebble developers propose to dump its waste into headwater lakes and streams of Bristol Bay, waters that support one of the largest salmon fisheries in the world. But it's not only mines; the same risk now exists for the many industries that, like the ore processing mill at the Kensington Mine, have significant solids in their untreated wastewater. Coal-fired power plants, aluminum smelters, cement manufacturing plants, and large beef cattle feedlots are just a few examples.

One look to Canada shows why allowing a mines to use lakes as waste dumps is a bad idea. For many years, Canada prohibited dumping mine tailings waste into bodies of water. But, in 2002, regulators began allowing it giving assurances that it would be highly unlikely that mining companies would try use the change to dump waste into uncontaminated, water bodies. There are already applications to use 11 lakes as waste disposal sites in Canada as mining companies preferentially choose to save money by dumping waste into natural water bodies.

Help Protect Clean Water

We need your help to encourage the Obama administration and Congress to take action.

The Obama administration can and should immediately: (1) repeal the Bush administration's misguided 2002 "fill" rule and make clear that fill material permits may not be used for industrial wastes; and (2) rescind the Regas Memo to ensure EPA effluent limitations do not exempt industrial wastes containing solids.

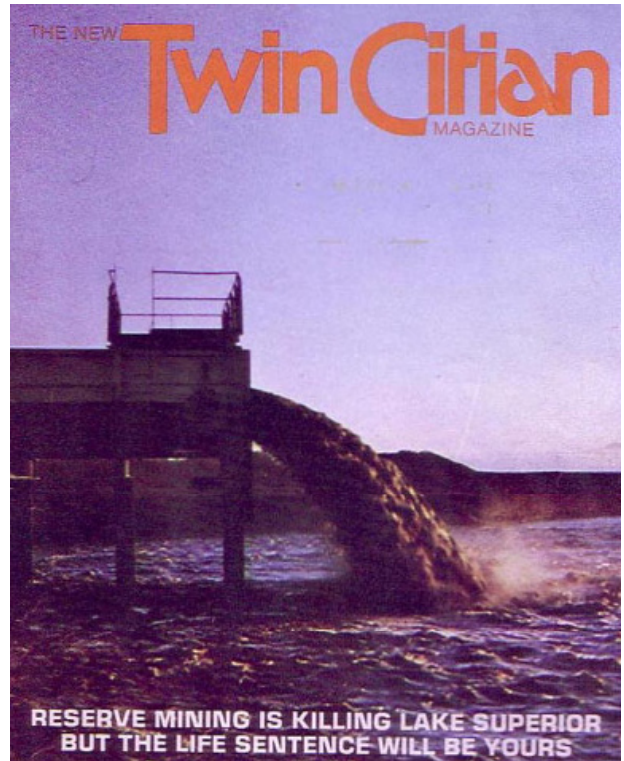
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Also, a bill pending in Congress—H.R. 1310, the Clean Water Protection Act—would repeal the Bush "fill material" definition and enact a legislative definition of the term for the first time. Please support this bill.

Find out how to contact your congressional representatives here: <http://www.congress.org/congressorg/home/>



Cover of Twin Citizen magazine showing tailings waste being dumped into Lake Superior by the Reserve Mining Company before the EPA pollution standard. This early pollution battle set the stage for prohibiting lake dumping of mine waste. The Kensington case undoes over 35 years of successful regulation under the Clean Water Act.