

KIVALINA SETTLEMENT SUMMARY

Settlement Terms:

- I. Entry of a consent decree dismissing with prejudice all claims in the litigation. Further the Plaintiffs will not sue Teck Cominco for NPDES violations from the date of the settlement until the earlier of when the pipeline is operational or Teck Cominco decides it will not pursue the pipeline. Finally, until the NPDES permit is next reissued, Teck Cominco will comply with the 1998 NPDES permit, as modified in 2003, except for TDS, which will be 1500 in stream and Teck Cominco shall pay a penalty of \$118,750 for each such discharge season.
- II. Teck Cominco's good faith commitment to build an effluent pipeline from the Red Dog Mine to the Chukchi Sea and (1) if Teck Cominco decides not to build the pipeline for good cause, then it will pay a penalty of \$8 million; or (2) if Teck Cominco does not have good cause to decide not to build the pipeline, then it will pay a penalty of \$20 million.
- III. Teck Cominco will purchase at least 125 reverse osmosis units for use in each residence, business and public building in Kivalina and pay the City of Kivalina \$10,000 for the installation of these units. Beginning in 2009 and until the pipeline is operational, Teck Cominco shall pay the City of Kivalina \$50,000 per year to maintain or replace these units.
- IV. The Plaintiffs in this litigation will withdraw as appellants in the Alaska Section 401 certification appeal and Teck Cominco, NANA, and the Borough will release the Plaintiffs from all claims that accrued prior to the date of settlement.
- V. All parties will work cooperatively to support the reasonable permitting of the pipeline; if Teck Cominco does not appeal any permit related to the discharge of Red Dog effluent, the pipeline, or Aqqaluk, then neither will the Plaintiffs. However, Plaintiffs reserve the right to appeal the TDS limit into Red Dog Creek during grayling spawning season. Teck Cominco will not seek a TDS limit in Red Dog Creek greater than 1500 in stream.
- VI. Stipulated penalties should Red Dog exceed the permit limits from the 1998 NPDES permit, as modified in 2003 (except for TDS which would be 1500 in stream).
- VII. The parties will seek to avoid discharging into Red Dog Creek after the pipeline is completed.
- VIII. Teck Cominco shall pay Plaintiffs' attorneys' fees and costs in the amount of \$2.35 million.