

KSM part III: 'A perfect storm' for mining push?

Relaxed regulations in Canada have opened doors for five transboundary mines that concern Southeast Alaskans

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The proposed site of the KSM mine's Mitchell pit is pictured, a location high in the Unuk watershed and one that flows into the Misty Fjords National Monument, near Ketchikan. This mine is quite large, and worrying stakeholders, but not the only open pit mine currently under permitting along transboundary lines.

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Editor's note: This is part three of a three-part series on the KSM mine, a proposed transboundary mine in British Columbia.

British Columbia sees aggressive development of its natural resources as a way to improve its economy; Southeast Alaska fishermen, tribes and environmental organizations see it as a threat to their fisheries and way of life.

They aren't just worried about Kerr-Sulpurets-Mitchell, a proposed open pit and underground mine near the international border. They're also worried about British Columbia's mining push as a whole; about Canada's changing environmental regulations, which hundreds of Canadian

scientists have protested; about the efficacy and authority of British Columbia's environmental compliance enforcement.

Ultimately, they worry that billions of tons of tailings — and the acid they produce — will make their way into Southeast Alaska's waterways.

Those who are pro-mining in Canada say any development, if it happens, will happen responsibly and will be monitored effectively, something concerned groups on both sides of the border say they doubt for a variety of reasons.

These are the upcoming mines in transboundary watersheds Southeast groups are most concerned about:

- Kerr-Sulphurets-Mitchell, an open-pit and underground mine in the Unuk River watershed. Over its 52-year life, it will produce 2 billion tons of tailings (stored in a B.C. watershed) and will require water treatment and maintenance “for the foreseeable future.”
- The Tulsequah Chief, an underground mine that will produce 3 million tons of tailings over its 8-10 year life as it reprocesses two previously mined mineral deposits. The mine closed in 1957 and has been leaking acid into the Tulsequah River, which flows into the Taku River, since its closure. There was a brief attempt at cleanup before the then-owner went broke. The Taku River Tlingit, a B.C. First Nation, sued at the end of last year to stop the mine's development.
- The Galore Creek mine, an open-pit mine in the Stikine/Iskut watershed. It would produce 510 million tons of tailings over its 18-year life.
- Schaft Creek project, between Schaft Creek and Mess Creek, which flow into the Stikine/Iskut watershed. It would produce 941 million tons of tailings over its 21-year life.
- The Red Chris mine, near the Iskut River's headwater lakes in the Stikine/Iskut watershed. It would produce 300 million tons of tailings over its 28-year lifespan.

All the mines have proven gold, copper and silver deposits. Some will also produce zinc, lead and/or molybdenum. Together, they will provide thousands of jobs in British Columbia, increase government revenue from taxes and increase overall economic activity — which is why they and other mines, and other forms of development, are being aggressively pursued.

But the combination of regulatory changes and a mining push is something that worries people like Gitanyow Fisheries Authority Fish and Wildlife Biologist Kevin Koch.

“It's kind of a perfect storm for potentially bad projects to get approved and built, and create a very long-term mess ... a very costly one,” he said.

Changing Provincial climate

Since Chris Hamilton started his job as chief environmental overseer of British Columbia's mine dams four or five years ago, the staff of the office has more than doubled, he said.

"We're being resourced very well," Hamilton said. "There's a lot of work — there are a lot of projects going on in British Columbia, which shows you we have a vibrant economy. We have all the resources we need to do the work."

Hamilton's organization, the British Columbia Environmental Assessment Office, is "a neutral agency that manages the review of proposed major projects." According to its jobs plan, British Columbia aims to get eight new mines operational by 2015; it aims for nine mines to get upgrades and expansions.

Currently, the B.C. Environmental Assessment Office has 17 metal or aggregate/coal mines in various stages of approval, according to Greg Leake, the EAO's director of communications. In total, the EAO has 38 active projects.

B.C. Hydro and Power Authority's Northwest Transmission Line was once one of those projects. It's a 214-mile-long power line under construction in northwest B.C. It aims to "provide an interconnection point for industrial development and clean power projects," according to its website. It will power mines and some nearby communities.

Rivers Without Borders interprets that purpose differently: "Proponents tout the NTL as a 'green' project that will provide cleaner energy and economic stimulus to a depressed region. In reality, it is a massive subsidy to industry, opening the region to large-scale mining and hydro development and providing power for new proposed mines," the organization wrote in a statement.

Assessment worries

The B.C. Environmental Assessment Office has been somewhat beleaguered in the last few years.

A July 2011 report from British Columbia's auditor general found significant issues with the office. The office didn't set measurable and enforceable conditions for projects, the report said. It also didn't sufficiently monitor, enforce, or evaluate certified projects.

After the auditor general's findings, Hamilton said, the EAO hired a new compliance and enforcement unit to actively audit projects across B.C.

"We've also had a look at how we develop conditions to make sure they're legally enforceable," he said.

Leake said the office conducted 23 site inspections in the 2013-2014 fiscal year, better than its target of 17. It also has people in other branches of government who are able to inspect, he said.

In January, British Columbia Premier Christy Clark announced a review of the Environmental Assessment process. Clark aims to reduce the amount of time in which a project will be permitted — in other words, to “get to yes faster.”

Now, the EAO is working to shorten the environmental assessment process and substitute federal reviews for provincial ones where possible. Soon, the EAO be focusing most on “key issues where significant adverse effects are most likely,” Leake wrote, adding, “The review is looking at the entire environmental assessment process. Where process improvements and/or timeline efficiencies are identified and deemed to support the objectives of the review, while maintaining the integrity of the environmental assessment process, we will consider them.”

Some think the process is already too fast.

The Gitanyow Hereditary Chiefs, a B.C. First Nation whose traditional territory includes a watershed that would house KSM’s proposed 2 billion-ton tailings facility, wrote in a November 2013 letter to Canada’s Minister of the Environment that “the timelines imposed by the EAO are clearly inadequate to enable meaningful consultation and ensure that proper mitigation aspects are in place.”

The EAO has, at least once, come to significantly different conclusions from the Canadian federal government on a project. Looking at Prosperity Mine in southwest B.C., the Canadian federal government found several significant issues with the project; the EAO found only one. The Canadian federal government rejected the mine’s application for a second time in February.

Province trumps federal rules

Hamilton and Leake each said the EAO is working closely with the Canadian federal government on KSM.

In line with Premier Clark’s request and changing federal laws, that means the role of the federal government in environmental assessment and permitting is shrinking.

A 2012 Canadian federal act provides for less duplication between federal and provincial governments — the federal government steps aside when the provincial government does the work, but according to the Canadian Environmental Assessment Agency, KSM and other projects undergoing a comprehensive study at the time the federal act was passed must follow the old law.

Other environmental protection laws have been rolled back. In 2012, hundreds of Canadian scientists wrote Prime Minister expressing concern about the removal of habitat protections from the Fisheries Act that year.

“We believe ... that the weakening of habitat protections in section 35 of the Fisheries Act will negatively impact water quality and fisheries across the country, and could undermine Canada’s

attempt to maintain international credibility in the environment,” they wrote. “Habitat destruction is the most common reason for species decline.”

Alberta’s nonprofit Environmental Law Centre, which “provides objective information and respected advice,” wrote that Canada’s changes to the Fisheries Act, which became active late last year, “mark the end of the prohibition against the harmful alteration, disruption or destruction of fish habitat.”

American interests

Four of the same resource managers and specialists who review Alaskan mines have examined KSM’s plan, said Kyle Moselle of the Alaska Department of Natural Resources. They found no significant issues with the application.

“We’ve been reviewing portions of the 41-volume environmental assessment,” he said.

State representatives also participated in a 2011 public meeting in Ketchikan at which Seabridge Gold representatives (Seabridge Gold is the company behind KSM) were present, flew out to the site a few years ago, participated in meetings with state and federal regulators in Juneau and met with government counterparts in British Columbia during an annual mining convention, Moselle said.

“We have to definitely prioritize ... how we put our effort forward for tracking or engaging on these projects,” he said. “Luckily, the province puts a tremendous amount of information online.”

Moselle pointed to Seabridge’s efforts to address Alaskans’ concerns, such as releasing water in a way that mimics natural cycles.

Questions DNR raised in its most recent comments had mostly to do with post-reclamation cost estimates.

“A review of available information indicates that post-closure facility management, water treatment and environmental monitoring will be long term and require significant funding,” Moselle wrote in a January letter to the EAO, asking for more information on financial assurances.

“I’m confident we’ll have a clear understanding of that (bonding) by the end of the process,” Moselle said in an interview.

Those who fear negative effects of the mine say Alaska’s review doesn’t go far enough. Chris Zimmer, Alaska campaign director for Rivers Without Borders, called it “appallingly cursory.”

They also say the state doesn’t have the money or resources to pay adequate attention to transboundary mining. The money for Alaska’s participation in KSM’s review process, for

example — \$25,000 for this year — came from Seabridge Gold. Moselle said the state requested that funding agreement.

“As state of Alaska’s lead agency for mining-related activities, DNR would have committed the time and resources necessary to review the KSM EA, in coordination with DEC and ADF&G, had the funding agreement with Seabridge Gold not been in place,” Moselle wrote in an email. “However, we would have had to prioritize that work with our other commitments that rely on general fund obligations.”

DNR will seek funding agreements with the other mines it’s tracking, Moselle said. If it doesn’t get the money, DNR’s general fund would need to cover the cost of participation.

“This is one big reason why we are asking the State Department for help,” Zimmer said. “The state’s participation in the permitting review (for KSM) seems entirely dependent on funds from Seabridge Gold. I think this is an inherently bad situation.”

Other regulatory agencies, like the EPA, have also provided some review of KSM.

In November of last year, the Department of the Interior offered comments in accordance with some international agreements. Due to staffing shortfalls, however, it said it could not conduct a comprehensive review or participate in any working groups.

Financing the Future

Seabridge and its partner will be required to post an environmental bond to care for the mine site. The amount is something the EPA, the Alaska Department of Natural Resources, First Nations and Southeast Alaskan organizations have all expressed concern about.

Brent Murphy, Seabridge Gold’s Vice President of Environmental Affairs, declined to answer questions about the amount of the bond, referring the question to the B.C. government.

“That is their decision. That is not ours,” he said.

Murphy said the operating cost to treat tainted water is \$0.0011 per gallon. Once the mine is no longer operational, he said it will cost roughly \$25 million a year to treat that runoff, which flows to the Unuk River, “for the foreseeable future.”

Hamilton said British Columbia requires financial security “for all, or part of, the outstanding costs associated with mine reclamation and the protection of land, watercourses and cultural resources.”

He said the amount and schedule of the financial assurance is determined at a later stage and usually changes depending on reclamation and closure liabilities.

In the bonding process, Hamilton said, money is “slowly put aside” as the company develops the project.

“The more development that happens, the larger the bond,” he said.

In B.C., the amount of the bond is determined after environmental assessment.

Those opposed to the mine say the number they’ve heard — \$400 million — is not enough to handle necessary cleanup should something happen to Seabridge or its partner.

“Who’s going to pay for these cleanups? You couldn’t pay for it. There wouldn’t be enough money to pay for something that catastrophic, if that were to happen. You’re talking cleanup forever,” Rob Sanderson said.

Sanderson is the 2nd Vice President for the Tlingit and Haida Central Council.

Moselle said the requirement for a bond, the need for which is made clear by the Tulsequah Chief Mine, is “probably one of the biggest differences between mining 50 years ago and today.”

But should the bonds not be enough, Moselle said Alaska has little recourse.

“It’s another country,” he said. “The state government of Alaska does not have any formal authority to force another state — let alone another country — to do something.”

Zimmer said he completely disagrees.

“The state can be proactive and demand better standards, higher bonds, other mechanisms to protect water quality ... invoke the Boundary Waters Treaty (of 1909). Look to the example of Montana and the Flathead Valley,” he wrote, adding that there are examples of states finding Canadian companies liable for transboundary pollution.

There’s also another concern: time.

“Without maintenance, these (dam structures and water treatment) systems will fail, and even with maintenance they will eventually fail,” wrote Guy Archibald a mining expert for the Southeast Alaska Conservation Council.

Hamilton said even after mitigation, most projects are going to have some kind of residual effect. In considering whether or not to certify a project, the EAO looks at whether or not those effects are “significantly adverse,” considering its context, magnitude, geographical extent, duration, frequency and reversibility.

“Proponents will often use the phrase ‘moderate,’ and it’s our job to probe a little and see if we agree with that or not,” he said. “Certificates when they are issued are conditional. It’s not just ‘Here, go build the project.’ It’s ‘Build the project with all these conditions’ ... as far as I’m

concerned, the project will have as many conditions as it requires for us to develop good conclusions.”

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