

Report on the AJ Mine Advisory Committee's Report

Earlier this year, Juneau Mayor Bruce Botelho convened a committee to consider the prospect of reopening the AJ Mine, located in downtown Juneau. After hearing expert testimony and receiving significant public comments, the AJ Mine Advisory Committee (AJMAC) submitted its final report to the City Assembly.¹ Two AJMAC members submitted dissenting reports to the Assembly, stating that the conditions contained in the majority's report did not go far enough. We agree. Although the majority's report did contain a number of the conditions necessary to protect Juneau's environment, property values, and way of life, it failed in several crucial respects.

I. Public Input

The Report fails to adequately respond to many of the concerns citizens expressed to the Committee, and fails to acknowledge what a divisive issue this is for our community. Of the many impacts the AJMAC Report fails to adequately consider, perhaps most important is the impact reopening the mine would have on Juneau's community, pitting those who strongly oppose the mine against those who strongly support it. The prospect of reopening the AJ has reopened a deep division in our community as has been made clear in the opinion pages of the Juneau Empire, the public comments submitted to AJMAC, and at AJMAC's public hearing. Yet, as AJMAC member Laurie Ferguson-Craig said, the final AJMAC report largely ignores the issue, reflecting **"a spectacular disregard for the deep division this proposal has opened up in our community."**

The AJMAC report now being considered by the City Assembly also seems to ignore many of the experts and citizens who took the time to comment in person or in writing to the Committee. Of the 150 comments submitted to AJMAC, 85 either did not want a mine in downtown Juneau under any conditions, or stated that very specific, restrictive conditions needed to be in place to protect our water quality and/or way of life. Many expressed concern that the conditions embodied in AJMAC's draft report were not sufficient. This compares with only 21 comments that encouraged developing the AJ without any mention of protective considerations. Yet, the final report by the AJMAC ended up being even *less* protective of these values than the draft had been.

II. Juneau's Water Supply

Water Quality. UAS Geology Professor Roman Motyka, who has studied the impacts reopening the mine would have on Juneau's water supply, told the Committee that the water supply would be seriously vulnerable to contamination if the mine were reopened.² Protecting Juneau's water was also

¹ Final AJMAC Report available at <http://seacc.org/issues/mining/a-j-mine>.

² Motyka, Roman. "AJMAC Public Comment" (April 18, 2011). Available at <http://seacc.org/issues/mining/a-j-mine>.

the main concern that citizens expressed in their comments to AJMAC. Yet, the report only goes so far as to require that the City and mine operator “jointly prepare, maintain and implement a specific contingency plan to assure that the community has a continuous safe water supply.” As AJMAC member Gregg Erickson expressed in his dissenting report – which called for the development of an alternative water supply prior to reopening the AJ – this falls far short of protecting the current watershed. Troublingly, this also grants partial responsibility for protecting our water quality to a profit-focused entity, whose main interest lies in doing things as cheaply and quickly as possible.

The report recommends keeping operations below the drainage tunnel to protect the quality of the water in the drainage tunnel, but also advocates 100% tailings backfill into the mine. The conditions embodied in the report do not clearly prohibit placing tailings and mill waste above the drainage tunnel. Tailings are not just crushed rock – they contain mill waste chemicals and contaminants from the water treatment plant, and are consequently, highly toxic. Consequently, disposing tailings above the drainage tunnel poses a serious threat to the short and long-term quality of Juneau’s water supply.

Water Quantity. Few Juneau residents appreciate how vulnerable our water supply already is due to limited quantity. As a 1993 Alaska Department of Natural Resources (DNR) report observed, even without reopening the mine, “at low flow periods Gold Creek may not be capable of supplying sufficient quantities of water to existing users [CBJ and AEL&P].”

The water coming out of the drainage tunnel currently contributes 15-20% on average to the flow of Gold Creek, which is especially important during the low flow months of winter. The report mentions protecting the quantity and quality of the water coming out of the drainage tunnel, but also mentions diverting water out a new access tunnel to sea water. If this water is diverted, that will significantly reduce the flow. Additionally, the report makes no mention of where the mine would get the large amount of water it would require to operate. If the AJ were to take this water from Gold Creek, this would also diminish water quantity, further compromising Juneau’s water supply.

Testimony by Roman Motyka Ph.D. Professor of Geology and Geophysics University of Alaska stated that “the results of studies done 20 years ago make it quite evident that the CBJ-LCB [Last Chance Basin] water supply would be **seriously vulnerable** to contamination and diminished water flow should the mine be re-opened.”³

In spite of this evidence, the AJMAC report states “the need for an alternative water supply is entirely speculative and meant to assuage fears.”

III. Need for Third-Party Oversight

Making protections permanent. No matter what terms the Juneau City Assembly may write into a lease that requires a mine operator to protect our drinking water, keep noise impacts low, or not adversely affect downtown, a later City Assembly could amend the lease at any time.

³ Motyka, Roman. “AJMAC Public Comment” (April 18, 2011). Available at <http://seacc.org/issues/mining/a-j-mine>.

In the case of the AJ Mine, the City is acting as both an owner, with a duty to maximize profits, and a regulator, with a duty to protect its citizens. Protections such as underground tailings disposal come at a large expense to the mining company. What will happen when the price of gold drops? CBJ has already answered this question: When the City's Large Mine Ordinance contained language that was perceived as a roadblock to the development of Greens Creek and Kensington, the City dropped the language and changed the ordinance. If CBJ is forced to choose between losing the mine and making the lease less restrictive, it will likely choose the latter option, keeping jobs and revenue but exposing Juneau to greater risk.

A Contract with the Mining Company and a Contract with the Citizens. During public testimony, SEACC along with at least 20 members of the public echoed mining expert Dave Chambers call for a third-party citizens' oversight committee to ensure that the terms agreed to in the lease remain for the life of the mine. The report reflected this concern, stating that "there is significant concern [from citizens] about how the conditions that the community may find acceptable at the beginning of this process could develop and change over the life of a mine." However, the recommendation only goes as far as to suggest that the CBJ Assembly should form a standing advisory AJ development committee made up of Assembly members, the Planning Commission and "knowledgeable public members." Not only would this committee be dominated by a city government with a strong financial interest in development, but the committee would lack any power at all to enforce the lease agreement.

An Easy Solution. Under the traditional model that AJMAC proposes, if CBJ wanted to make the lease more restrictive, the mining company would seek to have the contract enforced as written. However, if CBJ wanted to make the lease *less* restrictive – a far more likely scenario – the citizens protected by those conditions would have no recourse, because they would not be a party to the lease. A third-party contract that empowered the very citizens the conditions were aimed to protect to enforce those conditions would correct this imbalance.

If CBJ enters into a lease with a mining company, a condition of that lease should be that the mining company *also* enters into a contract with a third-party oversight group, made up of community members representing the same interests the conditions in the lease are intended to protect. The third-party contract would include the central conditions embodied in the lease – e.g., 100% underground tailings disposal, no tailings disposed above the drainage tunnel, and all milling done below-ground. This third-party citizens group would be entirely **independent from CBJ government**, thereby less vulnerable to the political pressure that elected officials would experience. We envision an 11-member group: 3 representing environmental interests (selected by local and regional environmental groups), three representing business interests (selected by local business groups, with one spot reserved for tourism), three representing resident interests (one selected by Thane residents, one by Downtown residents, and one by Douglas residents), and two scientists with expertise in a mine or water-related field (one selected by the business interests, one selected by the environmental groups). This group would not be charged with creating the applicable conditions – that would be up to the Assembly that wrote the

lease, since only those conditions in the lease would end up in the third-party contract. However, this group would have the authority to enforce the agreed upon conditions.⁴

If the City Assembly is going to set circumstances, why not put it into an enforceable contract with its citizens? A promise is a promise after all. Why should an outside mining company have more rights than local citizens?

*This report was prepared by SEACC's mining coordinator **Guy Archibald**, a former miner, environmental chemist and microbiologist.*

⁴ For a more in-depth discussion of enforcement, and our third-party contract proposal, see "SEACC's AJMAC Comments – Enforceability." Available at <http://seacc.org/issues/mining/a-j-mine>.