



March 27, 2023

Minister George Hyman  
Environment & Climate Change Strategy

**RE: KSM SUBSTANTIAL START DETERMINATION**

Dear Minister Heyman,

Based in Southeast Alaska, Salmon Beyond Borders is focused on protecting and restoring healthy, productive watersheds, and resilient ecosystems, and on responsible development. For over a decade, we have worked closely with communities, fishermen, businesses, scientists, and conservation organizations, alongside Tribes and First Nations on both sides of the Canada-US border, who are already or will potentially be impacted by British Columbia mining activity along the BC-Alaska transboundary Taku, Stikine, Unuk, and Nass Rivers (and around the transboundary Portland Canal).

Our partners in BC recently made us aware that Seabridge Gold (the Proponent) submitted an application titled, "KSM PROJECT – Evidence for Substantially Started Determination Request" (the Application), available on ePIC. According to the BC Environmental Assessment Office's [Substantial Start Determination Policy](#) (which we understand was developed without consultation with First Nations), a primary intention of the substantial start designation is to ensure project approvals remain appropriately current with regard to the assessment of social and environmental impacts. Given this, we submit to the following comments regarding your assessment of a substantial start designation for the KSM project (the Project).

**For multiple reasons outlined below, we urge that the Minister cannot reasonably find a substantial start designation for the KSM Project to be in the interest of the environment nor the public at this time.**

First and foremost, Salmon Beyond Borders fully supports the more than a dozen resolutions recently passed by Southeast Alaska Tribes and municipalities calling on President Biden to secure, with Prime Minister Trudeau, two key provisions along the BC-Alaska transboundary Taku, Stikine, Unuk, and Nass Rivers:

***(1) an immediate, temporary pause on permits for new British Columbia mines until binding watershed protections developed by communities and Indigenous and federal governments are in place;***

***(2) a permanent ban on earthen mine waste (“tailings”) dams.***

**BC continuing to pursue any mineral development like the KSM PROJECT in the transboundary Taku, Stikine, Unuk, and Nass watersheds – which are shared by multiple Indigenous nations, US, Canada, BC, and Alaska – before there is a robust international framework in place is in direct opposition to the requests of several Tribes and the majority of municipalities in Southeast Alaska.**

Over the last ten years, several dozen Tribes, municipalities, businesses, scientists, and sport, commercial, and conservation organizations, as well as tens of thousands of concerned individuals, have repeatedly called on the US and Canadian federal governments to enforce the Canada-US Boundary Waters Treaty and refer the issue of BC mining along BC-Alaska rivers to the International Joint Commission (IJC). Current BC and Canadian decision-making processes deny Tribal governments and US stakeholders a significant role in the stewardship of these shared salmon rivers, and a means to protect Alaska interests from upstream BC mining pollution. BC’s own experts predict two BC tailings dams will fail every ten years, if the practice of storing wet tailings behind earthen dams continues. The IJC was created to prevent and resolve transboundary water disputes, and Indigenous- and community-led binding and enforceable watershed protections can be drafted through the IJC’s International Watersheds Initiative process.

Most recently, [in a letter to President Biden](#), Alaska Senator Lisa Murkowski urged President Biden: “not to allocate any U.S. funding to Canadian projects in the transboundary watershed in general, and to withhold all U.S. support for [mining] projects within Canada until... conditions are met.” Senator Murkowski’s two conditions are, first, that Canada/BC immediately clean up the abandoned Tulsequah Chief mine, which has been polluting the transboundary Taku River near Juneau for more than 66 years. Second, *“The U.S. must support the request of Alaska Tribes, municipalities, business owners, and residents to establish a robust international framework that strengthens governance while preventing and resolving disputes over the use of shared waters,”* Murkowski wrote. *“The Boundary Waters Treaty of 1909 and the International Joint Commission offer both authorities and mechanisms that can be used for a binding bilateral agreement, which should include best practices as well as clear requirements for financial assurances and liability.”*

In April 2023, Alaska Representative Mary Peltola [formally called for an International Watershed Board](#) to be set up under the Canada-US Boundary Waters Treaty for the Taku, Stikine, Unuk, and Nass Rivers.

These calls for international action from Senator Murkowski and Representative Peltola build on the calls of the entire bipartisan Alaska congressional delegation for [“binding protections,](#)

[joint water quality monitoring, and financial assurances,](#)” developed by all jurisdictions in these watersheds, for shared BC-Alaska transboundary river valleys.

Alaskans and Salmon Beyond Borders have long had grave concerns about the proposed KSM Project, stretching back to 2013. Salmon Beyond Borders joined with thousands of Alaskans and Canadians who called on the Canadian federal government to perform a Panel review of the KSM Project, given its size, risks to fish and wildlife habitat in the Unuk and Nass watersheds, unproven water treatment at scale, and transboundary implications, etc. In a [letter](#) to the Canadian Environmental Assessment Agency on August 20, 2014, just days after the Mount Polley disaster, the State of Alaska highlighted the widespread calls for Canada to conduct a Panel review of the KSM Project, and wrote, *“The State formally requests to be included in the development of authorizations for this project as well as an opportunity to participate in the development of binding mitigation measures, monitoring, and enforcement provisions for the KSM Project.”* Despite this public outcry and formal requests from the State of Alaska, Canada still granted the KSM Project an environmental certificate in December 2014, a month before the Mount Polley Review Panel completed their report.

The proposed KSM gold mine is considered the [world’s #1 “largest gold project” by resource size](#), with at least one open pit, waste rock piles, and a perpetual water treatment facility in the upper Unuk watershed. The US\$5.3-billion proposed mine includes four *low-grade* mineral deposits, and the [preliminary economic assessment](#) released in August 2022 outlines an underground block-cave mining operation supplemented with an open pit, and an operational life of 39 years. According to Seabridge Gold’s proposal, toxic tailings from KSM will be transported in tunnels drilled under a glacier to a massive tailings facility ([28 times the size of Mount Polley’s tailings storage facility](#)) with four earthen dams at the Nass River headwaters.

Through the Pacific Salmon Treaty, Alaska commercial fishermen are allowed to catch some Nass River salmon; thus, a tailings dam failure at KSM would directly impact the U.S. and Canada. In the KSM Project Assessment Report, the BC EA Office noted that KSM has an unproven water treatment system at an operational scale and *“should be considered an uncertainty.”* The Engineer of Record has assigned the highest failure consequence category to KSM’s tailings dams - “Extreme” (predicted to result in 100+ human deaths). [Geophysicist Steve Emerman, Ph.D.](#) includes the KSM tailings dams as dams of special concern in his recent report.

**Salmon Beyond Borders also opposes the designation of the KSM Project as “substantially started” for the specific reasons outlined by our colleagues at the Gitanyow Hereditary Chiefs and SkeenaWild Conservation Trust, and agrees with their calls for action from the BC EAO.**

In a letter to you, Tara Marsden at the Gitanyow Hereditary Chiefs details how the BC EAO’s substantial start decisions pose risks to non-Indigenous as Indigenous communities. According to the Gitanyow Hereditary Chiefs, substantially started determinations, including the one for which Seabridge Gold has applied for the KSM Project, pose a significant environmental and socio-cultural risk to communities and First Nations by freezing project approvals in time, regardless of climate change, new scientific and socio-cultural information, and changes in

government recognition of Indigenous rights. Additionally, the current Substantial Start Determination Policy does not address new information on climate change and cumulative impacts, new legal and political commitments to uphold the United Nations Declaration on the Rights of Indigenous Peoples, nor any relevant evidence of proponent conduct. Given this, the Gitanyow Hereditary Chiefs strongly urge the BC EAO for (paraphrased):

(1) consultation with First Nations and the public on how substantial start determinations are made, and (2) a pause on substantial start decisions until a consultation-based policy has been developed.

Moreover, in a letter from SkeenaWild Conservation Trust, Adrienne Berchtold discusses the following three key reasons in detail why the KSM Project should not receive the “substantially started” designation: (1) immaterial information is presented in the Application; (2) the Project’s lack of financing; (3) the physical activities completed to date do not meet the definition of “substantially started.”

Again, we urge that **the Minister cannot reasonably find a substantial start designation for the KSM Project to be in the interest of the environment or the public at this time.**

Sincerely,  
Breanna Walker  
Salmon Beyond Borders Director

CC:  
Elenore Arend, Chief Executive Assessment Officer & Associate Deputy Minister, Environmental Assessment Office  
Nathan Cullen, Minister of Water, Land and Resource Stewardship & MLA for Stikine  
Malii/Glen Williams, Gitanyow Hereditary Chiefs