



Blake, Cassels & Graydon LLP  
Barristers & Solicitors  
Patent & Trade-mark Agents  
595 Burrard Street, P.O. Box 49314  
Suite 2600, Three Bentall Centre  
Vancouver BC V7X 1L3 Canada  
Tel: 604-631-3300 Fax: 604-631-3309

**Roy W. Millen\***

Dir: 604-631-4220  
[roy.millen@blakes.com](mailto:roy.millen@blakes.com)

\*Law Corporation

Reference: 97414/2

June 11, 2018

**VIA E-MAIL**

Artchange Inc.  
PO Box 6224  
Sitka, AK 99835

**Attention: Ellen Frankenstein**  
[artchangeinc@gmail.com](mailto:artchangeinc@gmail.com)

Skeena Wild Conservation Trust  
Unit 103 – 4622 Greig Avenue  
Terrace, BC V8G 1M9

**Attention: Greg Knox**  
[gregk@skeenawild.org](mailto:gregk@skeenawild.org)

Salmon Beyond Borders

**Attention: Heather Hardcastle**  
[salmonbeyondborders@gmail.com](mailto:salmonbeyondborders@gmail.com)

Northern Confluence  
PO Box 3022  
Smithers, BC V0J 2N0

**Attention: Niki Skuce**  
[nikki@northernconfluence.ca](mailto:nikki@northernconfluence.ca)

Stand for Water  
Unit 614 – 1500 Ostler Court  
North Vancouver, BC V7G 2S2

**Attention: Jacinda Mack and Carrie James**  
[info@standforwater.org](mailto:info@standforwater.org)

**Re: Defamatory and Libelous Content in “Uprivers” (the “Documentary”)**

Dear Sirs/Mesdames:

We are legal counsel to Seabridge Gold Inc. (“Seabridge”). We write regarding the Documentary. We understand that the Documentary has been touring communities in southeast Alaska and the northeastern US since late March 2018. It appears the campaign has now shifted into British Columbia, including a screening of the Documentary on May 29, 2018 in Smithers, BC.

The Documentary in its current form contains a number of false, inaccurate and/or misleading claims regarding Seabridge’s KSM Project. Those claims are defamatory and amount to a very serious libel against Seabridge. Without limitation, the Documentary contains the following false, inaccurate and/or misleading claims about Seabridge’s KSM Project:

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### ***An Inaccurate and Misleading Premise***

The Documentary focuses on a comparison between two projects in northern British Columbia: i) the Mount Polley mine, which is currently operating and ii) the KSM Project, which has yet to be built. The Documentary appears to be based on the premise that Mount Polley and KSM are identical projects and will be operated in the same manner. This premise is inaccurate as the two projects are vastly different. Comparing them as depicted in the Documentary is misleading.

In particular, the Documentary's focus on the August 2014 Mount Polley tailings breach leads viewers to the conclusion that the KSM Project must have a Tailings Management Facility that will drain into US waters. This is false. The KSM Project's Tailings Management Facility is located entirely within the Bell Irving Watershed, which drains solely into Canadian waters.

### ***False, Inaccurate and/or Misleading Claims Regarding Impact on Alaskan Waters***

Approximately 10 to 15 minutes into the Documentary, Ms. James states "a failure at KSM would destroy the Unuk River and the way of life in Ketchikan". This statement is false.

The potential impacts to Alaskan waters were carefully evaluated during both the provincial and federal environmental assessment reviews. As noted in the decision statement of the Canadian Minister of the Environment (the "Minister"):<sup>1</sup>

*The project is not likely to cause adverse environmental effects as defined in the former Act, taking into account the implementation of mitigation measures described in the report ... the mitigation measures and follow up programs described in the Report are appropriate for the project.*

The Minister also relied upon an independent Canadian Environmental Assessment Agency ("CEAA") report, which stated: "*the agency has concluded that no significant adverse impacts on water quality, water quantity, fish, or human health are expected on the Alaskan side of the Unuk River.*"

### ***False, Inaccurate and/or Misleading Claims Regarding Engagement with Alaskans***

Approximately 20-25 minutes into the Documentary, it is stated that "no Alaskan Governments and communities were included in the mine review". This statement is false. Seabridge worked closely with all interested parties during the environmental assessment review. This included Alaskan environmental non-governmental organizations and communities, to ensure that their concerns were acknowledged, addressed, and reflected in the KSM Project record throughout the Environmental Assessment ("EA") processes.

Seabridge conducted meaningful and timely engagement in good faith, beyond what was required by law. Seabridge has always been, and remains willing, to speak to interested parties in Alaska to

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<sup>1</sup> Minister of Environment, "Environmental Assessment Decision Statement" (December 19, 2014), online: <<http://www.ceaa-acee.gc.ca/050/document-eng.cfm?document=100529>>. 51087863.7

address their questions and concerns. Specific examples of Seabridge's efforts in this regard include, but are not limited to:

- a) Seabridge, the BC Environmental Assessment Office ("BC EAO") and CEAA created public notices to share information about the KSM Project with the public, as well as advertise for community meetings;
- b) Seabridge held public information sessions in Ketchikan, Craig, and Klawock, Alaska, which were attended by Southeast Alaska Conservation Council ("SEACC") members and other interested parties. All members of the public were invited to attend these information sessions and information was provided about how to provide feedback to Seabridge, BC EAO and CEAA;
- c) Seabridge held meetings with specific groups, including Rivers Without Borders, Rivers West, Southeast Alaskan business leaders, the Central Council of Tlingit and Haida Indian Tribes of Alaska, and the Southeast Alaskan Tribal Council to provide information on Project design, EA studies, and to identify concerns of the public;
- d) Seabridge held an open house in Ketchikan, Alaska on October 5, 2011. The location and date of the open houses was advertised in the Ketchikan Daily News on September 24, 2011 and October 1, 2011;
- e) On August 28, 2013, Seabridge met with SEACC, as well as the Tlingit-Haida Central Leadership Council, the Organized Village of Kasaan, and Rivers Without Borders in Juneau, Alaska, immediately following a KSM Project update meeting held with the State of Alaska;
- f) On March 25, 2014 Seabridge attended the Organized Village of Craig 2014 Mining Forum and presented to an audience that included SEACC and Tlingit and Haida members;
- g) On October 15, 2015, Seabridge wrote to SEACC, copying Guy Archibald, to correct information contained within the fall issue of RAVENCALL magazine (the magazine published quarterly by SEACC for its members). In this letter, Seabridge again offered to answer any questions SEACC and its partners had about the KSM Project. Seabridge also sent SEACC an email in January 2016 following up on this letter. SEACC never responded to the letter or asked for information about the KSM Project, but acknowledged receipt of the email and indicated that the information would be corrected in future editions;
- h) On April 28, 2016, Seabridge presented at the 2016 Prince of Wales Island-Wide Mining Symposium. SEACC and Tribal members were in attendance and Seabridge responded to a question from Guy Archibald regarding water quality;
- i) Every time SEACC has invited Seabridge to meet with it or to attend a meeting or conference, Seabridge has accepted and sent representatives to Alaska;

- j) Seabridge also engaged in regular communications with US federal and state agencies who represent the views of their constituents. Between July 17, 2008 and January 23, 2017, Seabridge has had over 130 interactions (including meetings and correspondence) with at least ten US federal and state agencies;
- k) Seabridge encouraged the BC government and the Alaska government to engage in discussions regarding transboundary concerns, which resulted in a Statement of Co-operation and Memorandum of Understanding. This accord brings the two jurisdictions together to discuss concerns and provide a venue for residents of both jurisdictions to engage in dialogue. Seabridge arranged the first meeting of the two jurisdictions in 2014 in light of concerns expressed by Alaskans; and
- l) As a result of the feedback received during the EA processes, major design changes and additions were incorporated into the design of the mine site (*i.e.*, the portion of the KSM Project that flows directly into Alaska), which will add an estimated additional capital cost to build the KSM Project of approximately C\$317.1 million.

Both the BC EAO and CEAA also actively engaged Alaskans and US government agencies. Specifically, the EA processes included a working group (the “Working Group”) comprised of Canadian federal and provincial officials, Aboriginal groups, local government agencies, and representatives of US federal and state agencies.

US agencies participating in the Working Group or interacting directly with Seabridge included the following:

- a) US Environmental Protection Agency;
- b) National Marine Fisheries Service;
- c) National Oceanic and Atmospheric Administration;
- d) Department of the Interior;
- e) US Forest Service;
- f) Alaska Department of Environmental Conservation;
- g) US Fish and Wildlife;
- h) Lieutenant Governor;
- i) Alaska Department of Fish and Game; and
- j) Alaska Department of Natural Resources.<sup>2</sup>

The Working Group played a significant role in the EA. In consultation with Seabridge, the Working Group identified the valued components to be studied during the EA. Working Group participants were

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<sup>2</sup> Canadian Environmental Assessment Agency, “KSM (Kerr-Sulphurets-Mitchell) Project: Comprehensive Study Report” (July 21, 2014) at p. 91, online: <<http://www.ceaa.gc.ca/050/documents/p49262/99565E.pdf>>. (“CEAA Report”) 51087863.7

provided with all comments received during public consultations. Moreover, the working group provided review comments on significant EA documents. There were more than 32 formal Working Group meetings during the EA.

CEAA received and addressed over 400 comments related to BC-Alaska transboundary concerns during the public comment period on the Environmental Impact Statement Summary portion of the EA. The CEAA Report acknowledges and summarizes these comments for the public record as follows:

“Residents of the United States, including tribal groups, raised concerns over the Project’s potential transboundary impacts on fish, recreational and commercial fisheries, and human health from degraded water quality and changes in water quantity in the Unuk River.<sup>3</sup>

[...]

Key issues that were raised included potential impacts on fish and fisheries (recreational and commercial), and human health from degraded water quality and changes in water quantity in the Unuk River.<sup>4</sup>

[...]

The Agency, in collaboration with federal departments, identified and assessed the potential adverse environmental impacts of the Project on the basis of: [...]

Comments from United States federal and Alaska state-agencies and proponent responses to the comments<sup>5</sup>”

Comments from Alaskans, including SEACC, were also acknowledged by the BC EAO and reflected in the public record. The BC EAO Report summarizes these comments as follows:

Late in the Application review stage, concerns were raised by Alaskan commercial and sport fishing groups, businesses, communities, tribes, conservation groups and individuals. Concerns were centered on potential effects to salmon and the significant commercial, sport and customary and traditional fisheries the Unuk River supports, as well as potential impacts to Alaskan seafood and tourism marketing efforts....<sup>6</sup>

<sup>3</sup> CEAA Report at p. III.

<sup>4</sup> CEAA Report at p. 91.

<sup>5</sup> CEAA Report at p. 15.

<sup>6</sup> BC Environmental Assessment Office, “KSM Project Assessment Report” (June 2014), online: <<https://projects.eao.gov.bc.ca/api/document/5888e5c5817b85ae43cf7c42/fetch>>.

BC Environmental Assessment Office, “KSM Project Assessment Report” (June 2014) at p.30, 141, online: <<https://projects.eao.gov.bc.ca/api/document/5888e5c5817b85ae43cf7c42/fetch>>. (“BC EAO Report”) 51087863.7

[...]

The State of Alaska was concerned about the potential elimination of fish habitat in BC watersheds that drain to Alaska, and the impact downstream to Alaskan fishery resources and water quality.<sup>7</sup>

The participating US federal and state agencies did not identify any outstanding transboundary concerns following the EA processes. An April 2014 article in the *Juneau Empire* described the US's review of the KSM Project as follows:

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.<sup>8</sup>

Moreover, the CEAA Report states:

The participating US federal and state agencies did not identify any outstanding transboundary concerns with the EA.<sup>9</sup>

Following extensive EA reviews, the governments of both BC and Canada concluded that Seabridge conducted significant, meaningful engagement with all concerned parties. This included Alaskans.

Alaskans, including SEACC, continue to be provided with Project information through regular updates on Seabridge's Project website. Moreover, Seabridge continues to provide presentations at various events in Alaska. For example:

1. Seabridge presented at the Alaskan Forum on the Environment held on February 6-10, 2017 in Anchorage. During this presentation, there were two sessions. The first session discussed how Alaska and BC are working together on transboundary issues. The second session presented the KSM Project as a specific example of collaboration, with Kyle Moselle describing the process of how Alaska interacted with BC and Canada on the KSM Project;
2. Seabridge presented a KSM Project update, following Kyle Moselle and a member of the United Tribal Transboundary Mining Work Group at the Transboundary Session on February 9, 2017;
3. Seabridge held a meeting with Kyle Moselle of the Alaskan Government in Vancouver in late January 2018 to provide an update on the KSM Project; and
4. Kyle Moselle participated in a program update session focusing on Seabridge's 2017 KSM Environmental Programs, on May 24, 2018, held in Smithers, BC.

<sup>7</sup> BC EAO Report at p. 141.

<sup>8</sup> Mary Catharine Martin, "KSM part III: A perfect storm for mining push?", *Juneau Empire* (April 10, 2014).

<sup>9</sup> CEAA Report at p. 91  
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### ***Wrong Project Identified***

Approximately 20-25 minutes into the Documentary, a flyover of a mining site in the Unuk River valley is shown that is identified as the KSM Project. This is incorrect. The site shown is the Brucejack Mining Project. This error is especially concerning as this was brought to the attention of the editor of the Documentary, Artchange Inc., in a letter dated June 23, 2016, and yet the Documentary was not corrected.

### ***Misleading Animated Clip***

Approximately 25 minutes into the Documentary, an animated clip shows 3 stick figures on the Canadian side of the US/Canada border pouring a barrel of oil into a river which flows into the US. Salmon then disappeared from the river on the US side. Such an animation, in the context of the Documentary and without explanation, is misleading to viewers, and misrepresents the mining regulatory regime in BC.

### **Conclusion**

The clear and intended implications of the above claims made in the Documentary are to have its viewers conclude, among other things, that:

- (a) the KSM Project and the Mount Polley mine are identical projects that will be operated in the same manner;
- (b) the KSM Project will have a Tailings Management Facility that, if breached, will drain into US waters;
- (c) a failure at the KSM Project would “destroy the Unuk River and the way of life in Ketchikan”; and
- (d) no Alaskan-based communities or governments were consulted in connection with the KSM Project.

As set out above, all of these claims are false, inaccurate and/or misleading and have the effect of lowering Seabridge’s reputation in the eyes of the normal person. Seabridge has consistently maintained that the protection of the environment is a guiding principle behind the design of the KSM Project. Seabridge’s reputation is well-established and is based on its commitment to sustainable development and community outreach and engagement in connection with its projects, including the KSM Project. The false, inaccurate and/or misleading claims made in the Documentary, as set out above, defame Seabridge’s hard-earned reputation.

We must emphasize the significance of this matter to Seabridge. Seabridge has invested significant resources in the KSM Project and in engaging communities on either side of the border. Seabridge has suffered and will continue to suffer serious damage as a result of this libel. The defamatory content in the Documentary is not justified or responsible.

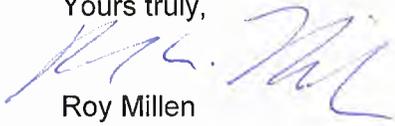
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We hereby demand that all future showings of the Documentary be suspended until the false, inaccurate and/or misleading statements in the Documentary, addressed above, are corrected.

Please confirm, by 4pm on Friday June 15, 2018, that all showings of the Documentary in its current (inaccurate) form have been suspended, and that you will not show the Documentary or distribute it to any other party until the inaccuracies noted above have been corrected.

We look forward to hearing from you promptly.

Yours truly,

A handwritten signature in blue ink, appearing to read "Roy Millen".

Roy Millen

c. client