

101 W. BENSON BOULEVARD  
SUITE 304  
ANCHORAGE, AK 99503

**FORTIER & MIKKO**  
A PROFESSIONAL CORPORATION  
*Attorneys at Law*

SAMUEL J. FORTIER  
DAGMAR C. MIKKO

TELEPHONE (907) 277-4222  
FAX LINE (907) 277-4221  
E-MAIL: [fortmikk@ak.net](mailto:fortmikk@ak.net)

*Of Counsel*  
JERALD M. REICHLIN

January 9, 2006

**VIA FACSIMILE & U.S. MAIL: 269-7649**

Jeff Brownlee  
Division of Spill Prevention and Response  
Department of Environmental Conservation  
555 Cordova Street  
Anchorage, AK 99501-2617

**Re: St. Lawrence Island NE Cape Cleanup  
Our File Number: 1103**

Dear Mr. Brownlee:

On January 4, 2006, a meeting of the leadership of St. Lawrence Island was held to discuss the results of the Phase IV remedial investigation and its implications for the upcoming feasibility study. The meeting was extraordinarily well attended. In addition to a substantial number of RAB members, the leadership of the cities, the village corporations and the tribes of both communities were well represented. A resolution regarding the consensus at the outcome of the meeting will be circulated shortly, but I am directing this letter to you as the State's representative and the individual that can have the most influence over the scope of the Corps' cleanup. As you are aware, NE Cape has been identified as a site for future settlement. The Suqitughneq ("Suqi") River has been a source of drinking water in the past and is likely to serve as such again.

The Corps has identified the contamination in the Suqi River as biogenic in origin based upon unconvincing lab results which collapse in the light of known facts. Oil spills along the Suqi River drainage are documented in the record and also by witnesses that attended the meeting. The documented spill alone is over 160,000 gallons. You have walked along the Suqi River, as has Dr. Scudato and many local residents. They report that the sediment is still oozing oil, and that a sheen is present. For the Corps to suggest that the results of the lab experiments indicate that the contamination is biogenic defies logic, reason and good science. If the contaminants in the Suqi River are not from the spilled oil, what happened to the 160,000 plus gallons?

The oil has weathered over the 30-40 years it has been lying on the ground, and it is not surprising that the chemical composition does not exactly match the chemical profile of freshly spilled product. The lighter elements have probably evaporated. Others have probably seeped into the ground. Our TAPP advisor informed us 1) that the testing that has been performed thus

Jeff Brownlee

Alaska Department of Environmental Conservation

January 9, 2006

Page 2

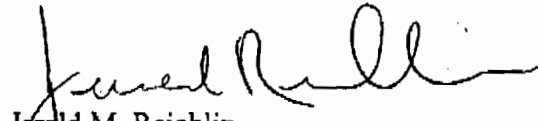
far is, as a matter of good science, insufficient to establish that the contamination in the Suqi River and estuary is biogenic in origin and; 2) that there is more sophisticated testing than was done by the lab that could better identify the contamination present. This testing was not performed, and it is uncertain whether the local labs are capable of performing the tests.

We all know the oil was spilled and that it was not cleaned up. We know that there used to be salmon in the Suqi River and that they are not there now. The determination that the sources of the contamination at Site 29 are biogenic, based upon the quality of the testing that has been done thus far and without accounting for the oil spilled on the ground, seems to be directed toward a particular result. The contamination of the Suqi drainage vastly complicates clean-up and remediation for the Corps, but those complications are best addressed in the feasibility stage of the clean up. They should not be permitted to influence the remedial investigation.

The State should require more definitive testing of the contamination or it should reject the conclusion that the contamination arises from biogenic sources based on the evidence presented. Finally, if you think that the Corps' work is consistent with good science, common sense, and that its conclusions are justified by the known facts, I would ask that you address the RAB and explain why this is so.

Very truly yours,

FORTIER & MIKKO, P.C.



Jerald M. Reichlin

JMR/kld

cc: Sivuqaq, Inc. (via fax: 907-985-5826)  
Savoonga Native Corporation (via fax: 907-984-6027)  
City of Gambell (via fax: 907-985-5927)  
City of Savoonga (via fax: 907-984-6411)  
Native Village of Gambell (via fax: 907-985-5014)  
Native Village of Savoonga (via fax: 907-984-6027)  
ACAT (via fax: 222-7715)  
Dr. Scudato (via fax: 315-341-4240)  
Carey Cossaboom (via fax: 753-7626)