

= Coeur Alaska , Inc. v. Southeast Alaska Conservation Council =

Coeur Alaska , Inc. v. Southeast Alaska Conservation Council , 557 U.S. 261 ( 2009 ) , is a United States Supreme Court case that was decided in favor of Coeur Alaska 's permit to dump mine waste in a lake . The case addressed tailings from the Kensington mine , an underground mine located in Alaska . The gold mine had not operated since 1928 , and Coeur Alaska obtained a permit in 2005 from the United States Army Corps of Engineers ( USACE ) to dispose of up to 4 @. @ 5 million tons of tailings in Lower Slate Lake , which is located in a National Forest .

The suit was filed by three environmental non @-@ governmental organizations and brought before the United States District Court for the District of Alaska who found in favor of Coeur Alaska . The District Court 's decision was overturned by the U.S. 9th Circuit Court of Appeals before being brought before the Supreme Court , who also found in favor of Coeur Alaska .

The ruling was praised by the National Mining Association for the economic benefit it provided . Environmental groups criticised the decision for the impact it would have on Lower Slate Lake , and the opportunity for its use as a precedent in the future . In March 2009 proposed legislation , the Clean Water Protection Act , was introduced in Congress to remove mining waste from the definition of " fill material . "

= = Background = =

In 2005 Coeur Alaska Inc . , a subsidiary of Coeur d 'Alene Mines , successfully applied for a tailings disposal permit from the USACE . The permit allowed Coeur Alaska to dispose of 4 @. @ 5 million tons of tailings from the Kensington gold mine , 45 mi ( 72 km ) north of Juneau , into Lower Slate Lake . The mine operated in the early 20th century , but had been inactive since 1928 . The lake is 3 miles ( 4 @. @ 8 km ) from the mine , within the Tongass National Forest .

The discharge of material into waters of the United States is regulated under the Clean Water Act by either the USACE or the Environmental Protection Agency ( EPA ) , depending on what the material is . Discharge of " fill material " falls under the jurisdiction of the USACE ; discharge of other pollutants falls under the jurisdiction of the EPA . In 2005 Coeur was granted a permit to dispose of tailings into Lower Slate Lake by the USACE under section 404 of the Clean Water Act . The decision was based on the definition of " fill material " which had been revised in 2002 under the administration of George W. Bush . This new definition allowed some contaminants to be included in mine waste and still be classified as fill . The permit allowed Coeur to dump 4 @. @ 5 million tons of a combination of waste rock and tailings into Lower Slate Lake over a period of ten years , causing the floor elevation of the lake to rise by 50 ft ( 15 m ) .

After the USACE issued the permit , the Southeast Alaska Conservation Council , the Sierra Club , and Lynn Canal Conservation Inc. filed suit . The suit claimed that the permit was issued in violation of sections 301 ( a ) , 301 ( e ) , and 306 ( e ) of the Clean Water Act . The United States District Court for the District of Alaska found that the USACE was correct in its application of section 404 of the act , because the permit was for " fill material " , and therefore not covered under or in violation of sections 301 ( e ) and 306 ( e ) .

In May 2007 the District Court 's 2006 decision was overturned by the U.S. 9th Circuit Court of Appeals . The Circuit Court found in favor of the non @-@ governmental organizations , ruling that discharge of tailings was not permitted under the EPA 's New Source Performance Standard .

= = Opinion of the Court = =

The Supreme Court found in favor of Coeur Alaska by a vote of 6 @-@ 3 , agreeing that the USACE is indeed the appropriate body to issue a permit to discharge mine waste into Lower Slate Lake . In her dissent , Justice Ruth Bader Ginsburg stated that currently discharging pollutants into a lake is permitted provided there is enough material to raise the lake 's floor elevation , thereby turning it into a waste disposal site . Ginsburg voiced concern about the potential for pollution regulation to not apply to several industries ( mining included ) on the basis of this loophole .

= = Subsequent developments = =

The decision was praised by the National Mining Association , which stated that it would " provide employment and greater economic certainty for all those involved in the project " . Alaska Governor Sarah Palin also welcomed the ruling , calling it a " green light for responsible resource development " . The environmental groups that originally filed suit against Coeur Alaska were unhappy with the decision . Environmental groups stated that the proposed material includes aluminum , lead , and mercury ( among other metals ) , and that discharging into Lower Slate Lake will have a detrimental effect on the lake and surrounding waters . A representative from Earthjustice warned of the ruling being used as a precedent , allowing other companies to discharge pollutants into other rivers and lakes . Following the court 's decision share prices of Coeur d 'Alene Mines rose over 5 % .

In March 2009 a bill , the Clean Water Protection Act , was introduced in Congress by Frank Pallone and Dave Reichert . The Clean Water Protection Act would have changed the definition of " fill material " in the Clean Water Act . Under the new definition " fill material " would have excluded mine waste .