

STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

FINAL FINDING AND DECISION

ADL 232368

Donlin Gold, LLC

Private Non-Exclusive Fiber Optic Cable Easement

AS 38.05.850

This Final Finding and Decision (FFD) complements and updates the Preliminary Decision (PD) dated January 24, 2019. To be eligible to appeal this decision, a person must have provided written comment during the comment period of the PD.

Action:

The Department of Natural Resources (DNR) Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has made a decision to issue a 30 year private, non-exclusive easement to Donlin Gold LLC (Donlin) for an approximately 207 mile long discontinuous alignment occupying 753 acres, more or less, of state land for the construction, use, operation, maintenance, and survey of a fiber optic cable and associated facilities in support of the proposed Donlin Gold project.

Changes to the Decision:

The following changes have been made to the PD:

Change #1 – Classification and Planning:

As described in the PD, DMLW's Resource Assessment and Development Section (RADS) had drafted a proposed Amendment to DNR's Kuskokwim Area Plan (KUAP) and associated Land Classification Order (LCO) No. SC-88-001A21 to address management of state land and unclassified state land that was not addressed in the 1988 adoption of the KUAP. RADS provided its own public notice for the proposed Amendment and LCO. The Commissioner of DNR adopted the KUAP Amendment and LCO as a final plan on July 10, 2019.

Lands affected by the proposed fiber optic cable system alignment that were previously identified as unclassified are now incorporated into the Swift River Management Unit, Subunit 11a, which is classified as Wildlife Habitat Land (11 AAC 55.230).

Change #2 – Easement Performance Guaranty (bonding):

The individual performance guarantee requirement for the fiber optic cable easement will be incorporated into a Financial Assurances Agreement (FAA) between DNR and Donlin which will

address the co-located infrastructure described in both ADL 232368 concerning the fiber optic cable easement and in ADL 231908 concerning the natural gas pipeline right-of-way lease.

Any assignment of ADL 232368 to a third party will entail reconsideration and potential amendment of the performance guarantee requirement at the time that the request for assignment is made.

Change #3 – Insurance:

An individual insurance requirement for the fiber optic cable easement has been incorporated into a FAA between DNR and Donlin that will address the co-located infrastructure described in both ADL 232368 concerning the fiber optic cable easement and in ADL 231908 concerning the natural gas pipeline right-of-way lease.

Any assignment of ADL 232368 to a third party will entail reconsideration and potential amendment of the insurance requirement at the time that the request for assignment is made.

Change #4 – Limited & Entry Authorizations:

Donlin will be issued a Limited Entry Authorization (LEA) for a term of five years, following the effective date of the FFD to commence collection of the annual fee of \$271,080.00. Donlin will be required to submit the FAA as a condition of the LEA and will be responsible for maintaining the FAA throughout the term of the LEA, Entry Authorization (EA) and the easement.

Donlin does not foresee that construction will begin immediately, therefore, Donlin will be required to notify DMLW in writing (“Request to Proceed”) as soon as known, but no less than 120 days prior to the anticipated start date of construction in order to provide SCRO enough notice to prepare the EA.

These fees may be adjusted if the regulation(s) or department fee schedule pertaining to the fee(s) change during the term of the LEA or Entry Authorization (EA) and/or final easement and will be subject to non-sufficient fund and late payment penalty fees.

Change #5 – Final Easement Compensation:

The final easement fees as outline in the PD remain the same and may be adjusted if regulation(s) or the department fee schedule pertaining to the fee(s) change during the term of the easement and will be subject to non-sufficient fund and late payment penalty fees.

Public Notice of the Preliminary Decision:

The PD was advertised for a 60-day public comment period, beginning on January 28, 2019.

To rectify a technical oversight and to fully satisfy noticing requirements, the public notice was mailed to the Crooked Creek Post Office on April 9, 2019 and comments were due by May 13, 2019. No comments were received.

Public Comments:

Public comments, including comments submitted by the applicant, and SCRO’s responses are in Attachment A.

Recommendation:


DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found that this project is consistent with all applicable statutes and regulations. This decision considered submitted agency and public comments. The issuance of this easement serves the best interest of the State as it provides a direct and indirect economic benefit to the State and encourages the development of the State’s resources. Collection of the one-time filing fee and annual fees represent the direct economic benefit realized by the State. Indirect economic benefits provided by the authorization include creation of jobs and increased activity in the local communities. Moreover, this authorization is in the State’s best interest as it furthers development of natural resources and supports increased economic activity regionally and statewide. It is therefore recommended that DMLW issue Donlin, subject to completion of the LEA and EA requirements, a 30-year easement under the authority of AS 38.05.850.


Cynthia Zuelow-Osborne, Natural Resource Specialist III

01-02-20
Date

Final Finding and Decision:

The final findings of the Preliminary Decision have been reviewed and considered. Public notice has been accomplished. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. I find it is in the best interest of the State to proceed with the issuance of this easement under the authority of AS 38.05.850. DMLW will issue a LEA for five years to collect the annual fee of \$271,080.00 and Donlin will be required to submit the FAA as a condition. Donlin will be required to provide DMLW with a written “Request to Proceed” 120 days prior to receiving an EA to perform ground-disturbing activities within the proposed footprint of the private, non-exclusive fiber optic cable easement, subject to completion of all requirements. This decision may be rescinded by written notification to the applicant if, after 60 days from the effective date of this decision, the applicant has not notified DMLW to proceed with issuance of the appropriate authorization. Additional time may be allotted to meet this requirement; however, this will not extend the total term of the authorizations issued under this decision.


For Clark Cox, Regional Manager
Southcentral Regional Office, Division of Mining, Land and Water

1/2/20

Appeal:

A person affected by this decision who provided timely written comment or public hearing testimony on this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of “issuance” of this decision, as defined in 11 AAC 04.040(c) and (d) and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. Under 11 AAC 02.030, appeals and requests for reconsideration filed under 11 AAC 02 must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160(a) and (b).

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the Department on the 31st calendar day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.



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Commenter	Comment	DMLW/SCRO Response
<p>The Kuskokwim Corporation Anchorage</p>	<p>“The Kuskokwim Corporation (TKC) appreciates the opportunity to comment on the applications received by SCRO for facilities located on State lands that are in support of the proposed Donlin Gold mine. The proposed port facility, airstrip, material sites, easement for access roads and fiber optic cable are a crucial part of the overall infrastructure in support of the project, as well as work in tandem with lands leased from TKC and Calista in support of the improvements.</p> <p>TKC is the Alaska Native village corporation that holds the surface rights to the land on which the Project will be built. TKC was formed in 1977 by the merger of 10 Alaska Native Claims Settlement Act (ANCSA) village corporations, located along the middle region of the Kuskokwim River. These 10 villages combined their cash resources and land entitlements, allowing TKC to pursue new opportunities that would benefit all TKC Shareholders. It is the vision of The Kuskokwim Corporation to achieve sustainable growth while protecting our lands and responsibly balancing the needs of all stakeholders. Responsibly developing the land and resources was the intent that our forefathers, identified for the benefit of all TKC Shareholders, and protecting our land to provide for future generations is our highest priority.</p> <p>As surface owners of the land on which the Project is proposed, TKC finds it imperative that any development on our land, and neighboring lands, be carried out in a thoughtful manner that safeguards our Shareholders' way of life. The lands on which the Project will be developed will always be ours; long after mining ends. As such, we take very seriously our responsibility to ensure that appropriate plans and resources are available for the long-term care and maintenance of the site for future generations of our Shareholders.</p> <p>TKC supports a 55-year lease on State and Calista lands for a private airstrip in support of operations and reclamation access for the Project. TKC feels the construction and maintenance of the Airstrip is a key</p>	<p>Comment acknowledged.</p>

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part of the project, not only providing support for construction and operations, but providing access for long term reclamation and post closure monitoring activities as well. The proposed airstrip also provides a safety factor for the project; the runway will be equipped with communication and navigational aids that will allow for emergency medical evacuations and safe personnel transport throughout the life of the mine in varying weather conditions. TKC also supports restricted access to the airstrip as a safety measure and operational control for the operator of the runway. Under the lease conditions, the State will require mitigation measures that reduce impacts on traditional use, reclaims habitat, and protects migratory birds. Though not directly on TKC land, these mitigation measures protect our Shareholder resources and traditional uses.

Jungjuk Port Site

The Jungjuk Port is needed to complete the transition of supplies and consumable through the life of the mine and closure. Most of the above-ground port facilities are located on TKC lands, and TKC has negotiated a construction and operation contract for the benefit of our Shareholders. The State portion on the submersed lands are an important part of the project. The requirements for handling fuel and other hazardous materials are highly regulated by USDOT, USCG, RCRA, and other laws. As well, Donlin has agreed to an operational spill response plan and training for TKC Shareholders that is above and beyond State and Federal requirements. Fuel stored on TKC land will be piped directly from the barges to a lined, bermed storage tank. Strict compliance with regulations and operational controls will be in place for transporting fuel from tank to barges.

There has been almost a decade of studies for the Jungjuk port site, and final engineering will take into consideration precipitation, snow loads, temperature, seismic, ice (thickness, movement, speed and duration, height of action, and bed scour), wind, waves, ground conditions, in-river geotechnical data and erosion.

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	<p>Material Sites</p> <p>As neighboring land owners, TKC supports the State plan for allowing Donlin to develop the material sites in support of the mine infrastructure for the following reasons; Donlin has proposed mitigation measures that include best management practices, regulation and permit compliance, federal agency mitigation requirements, monitoring and adaptive management, coordination with the public, state, and federal agencies, as well as financial assurance and compensation to the State. They have also proposed concurrent and final reclamation plans for the sites.</p> <p>Easements for road and fiber optic.</p> <p>TKC supports the State granting the easements for a private road from the Junjuk Port site to the airstrip and mine. TKC has granted easements as well for the portion of the road that lies on TKC lands. A private road will allow for controls to ensure public safety.</p> <p>The public will not need to utilize the road for transportation to the mine site. TKC, Calista, the State of Alaska, and BLM have worked on a public easement realignment plan to provide alternative equal public access in a safe and viable manner that will allow mining operations to co-exist with public travel.</p> <p>Post closure, TKC has negotiated a role in deciding what infrastructure to keep or reclaim to its previous condition. A reclamation and mitigation plan is in place for each of the State's applications. A safe and complete Reclamation and Closure plan as well as effective mitigation are crucial pieces of this project. We support the applications and best practices to ensure our lands are protected for TKC's current and future Shareholders.</p> <p>We greatly appreciate the State's ongoing efforts in issuing their permits and other authorizations for the Project. Approval of these</p>	
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	<p>permit applications are an important milestone in this process. Thank you for allowing us to voice our comments.”</p> <p>“I would like to see the Donlin Gold mine be developed. The Amendments to original plans should be adjudicated quickly. Donlin mine will be a great societal benefit to the area and a major taxpayer to the state. I have lived and mined in the area off and on since 1960.”</p>	<p>Comment acknowledged.</p> <p>The Kuskokwim Area Plan (KUAP) Amendment was prepared by DNR’s Resource Assessment and Development Section (RADS) and this comment was forwarded to RADS.</p>
<p>Larry Wilmarth</p>	<p>Resource Development Council Anchorage</p> <p>“The Resource Development Council for Alaska, Inc. (RDC) is writing in support of the proposed changes to the Kuskokwim Area Plan. The Land Use Authorizations for the Donlin Gold, LLC (Donlin) project would allow for a submerged lands lease for a port, a private road easement, an airstrip, a fiber optic cable from Cook Inlet to the project site along the proposed natural gas pipeline route, and materials sites on State lands for road construction.</p> <p>RDC is a statewide business association comprised of individuals and companies from Alaska’s oil and gas, mining, forest products, tourism, and fisheries industries. RDC’s membership includes Alaska Native Corporations, local communities, organized labor, and industry support firms. RDC’s purpose is to encourage a strong, diversified private sector in Alaska and expand the state’s economic base through the responsible development of our natural resources.</p> <p>RDC urges the State to grant the land use authorizations for the proposed Donlin Gold project site. The authorization would benefit the State by generating revenues from use of state lands, lands that have very little revenue potential otherwise. All of the land uses proposed would generate significant direct and indirect revenues for the State.</p> <p>The gas pipeline would provide a stable source of energy for the Donlin project and has the potential to offer the same to local communities if</p>	<p>Comment acknowledged.</p> <p>Comments regarding the KUAP Amendment are outside the scope of the January & April 2019 public notices for the lease, easement, permit and material sale applications and preliminary decisions under consideration by SCRO. that are identified by ADL and LAS number in the public notice.</p> <p>The KUAP Amendment was prepared by DNR’s Resource Assessment and Development Section (RADS) and this comment was forwarded to RADS.</p>

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they choose to tie into the pipeline, or use power generated from its natural gas at a later date. The same goes for a fiber optic cable that would run alongside the pipeline. If communities choose to tie into it, it would increase telecommunication capacity and provide other opportunities. The pipeline will bring natural gas closer to rural Alaska, and potentially offer lower cost energy options to the region and job opportunities leading to reduced out-migration. The gas pipeline is also a cleaner, superior energy source than other options and offers a better delivery method.

Further, approval would give Donlin access to the project site while avoiding direct impacts to the village of Crooked Creek. A 27-mile road and port are planned to eliminate project traffic from the community by building a new port on lands owned by The Kuskokwim Corporation and Calista Corporation near Jungjuk Creek.

In addition, a Kuskokwim River port lease is needed to allow construction of a dock face to provide safe, reliable handling of materials and fuel. Donlin proposed the gas pipeline as an alternative after residents along the Kuskokwim River expressed concerns about excess barge traffic delivering diesel to the project. The pipeline will reduce expected fuel barge traffic on the river by nearly 67%.

Lastly, the airstrip location was selected to provide safe and reliable access for transporting crews to and from the mine site, and the proposed road easement is a private access road for public safety reasons to avoid accidents between industrial mine traffic and light vehicle use.

About the Donlin Gold project
The Donlin Gold project is located in a region of Alaska that experiences some of the highest unemployment and poverty rates and has very few other opportunities. Through the exploration stages, Donlin has shown a strong commitment to local hire and for supporting

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	<p>communities and cultures in the region. A project like this truly is a rare opportunity to improve the local economy where few other opportunities exist.</p> <p>New mining operations in the area, should they come to fruition, can be of great economic benefit to Alaska and local communities, as well as Alaska Native corporations and shareholders. The Donlin project could produce gold for over 27 years, while providing family wage jobs in a region where few other opportunities exist.</p> <p>The project, when developed, would benefit Alaska Native corporations statewide. Royalties paid to the Calista Corporation will in part be redistributed to other regional and village corporations. The Donlin project will provide responsible economic prospects for this region and for Alaska, while protecting the subsistence resources.</p> <p>If developed, RDC believes it will be done in a way that creates opportunity for local employment and economic growth, while protecting the subsistence resources, the culture of the region, and the environment.</p> <p>Further, Donlin Gold has engaged with the communities in the region since submitting its application in 2014. In every public meeting in Bethel, and in many other lower Y-K communities, Yup'ik translators have been made available for stakeholders who may require translation.</p> <p>Conclusion In closing, RDC supports the proposed changes to the Kuskokwim Area Plan, and the Land Use Authorizations for the Donlin project. Thank you for the opportunity to comment on this important project.”</p>	
<p>Calista Corporation Anchorage</p>	<p>“Calista Corporation (“Calista”) strongly supports the Alaska Department of Natural Resources (“DNR”) preliminary decisions (“PDs”) to approve all of the above-listed activities, including the Area</p>	<p>Comment acknowledged.</p>

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	<p>Plan amendment, leases, material sale/site agreements, easements and land use permits.</p> <p>CALISTA CORPORATION Calista is the regional Alaska Native Corporation for the Yukon-Kuskokwim ("YK") Delta of Southwest Alaska with over 29,000 Shareholders. Calista is committed to the corporate purpose established by our Elders in 1971 of promoting the economic well-being of the Alaska Natives of the Y-K Delta.</p> <p>Calista owns over 40 subsidiaries in diverse lines of business including government contracting, construction, real estate, aviation and environmental services. Our mission is to increase Shareholder benefits and economic opportunities through innovation, growth, leadership, execution and financial discipline. Since our inception, Calista has provided Shareholders with more than \$64 million in dividends and distributions and \$6.5 million in Elders' distributions. Calista also owns large amounts of surface and subsurface estate acreage in the vicinity of the various proposed activities.</p> <p>GUIDING PRINCIPLES Calista is committed to fulfilling the promise of the Alaska Native Claims Settlement Act ("ANCSA"), including developing our land and exercising Alaska Native economic self-determination. Our Elders selected the land and mineral rights at Donlin Creek so our Shareholders would benefit from the development of its mineral endowment. For over 40 years Calista has taken an active and hands-on approach in pursuing the vision of our Elders: To develop the Donlin Creek resource in a responsible manner that creates jobs and economic benefits for Shareholders while safeguarding our culture and environment.</p> <p>COMMENTS</p>	
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Calista has reviewed the documents associated with the proposed actions, including the KUAP amendment, leases, material agreements, easements and land use permits. We strongly support the approval of all these preliminary decisions because individually and collectively, they will create jobs and economic benefits for our Shareholders and other Alaskans while protecting our culture and environment, consistent with Calista's values and the vision of our Elders.

1. SC-88-001A21, Draft Kuskokwim Area Plan ("KUAP") Amendment

The area of the proposed KUAP amendment includes blocks of state-owned and state-selected lands and navigable waters within Management Units 10 and 11 of the KUAP, covering areas at or near the Donlin Gold Project. DNR proposes to (1) add approximately 270,849 acres of newly designated Minerals and Wildlife Habitat to Subunit 10b, (2) add approximately 50 acres for Waterfront Development in a proposed new Subunit 10c, (3) add approximately 83,077 acres for Resource Management in a proposed new Subunit 10d, and (4) add approximately 116,160 acres of newly-designated Wildlife Habitat land to Subunit 11 a.

Calista supports these changes to the KUAP because they allow land uses that will be required to develop the Donlin Gold Project to create jobs and economic benefits for Shareholders and other Alaskans, while also allowing land uses consistent with subsistence and protection of our environment.

2. ADL 232199 - Lease for an airstrip and related improvements

Calista has reviewed the DNR preliminary decision to approve the Donlin Gold, LLC ("Donlin") application to lease state land to build and operate a proposed 5,000-foot airstrip near the Donlin Gold Project. The airstrip will encompass a total of 570 acres of land, but 131 acres on the northwestern portion of it will be on Calista lands. Donlin states in its application that it has secured Calista's approval to construct that portion of the airstrip, and we confirm that is the case.

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	<p>The construction and operation of the airstrip will create jobs and economic benefits for Shareholders and many other Alaskans, and DNR's PD contains many stipulations and requirements that will ensure protection of our subsistence lifestyle and the environment.</p> <p>At a general level, construction and operation of the airstrip will be done in a way that ensures protection of subsistence and the environment by (1) following best management practices, (2) complying with regulations and permit requirements, (3) using proper design and construction methods, (3) implementing federally-approved mitigation methods, (4) compensating for impacts e.g. providing substitute resources, (5) implementing monitoring and adaptive management, (6) complying with the Donlin Gold Project Environmental Impact Statement of April 2018, and (7) continuing to consult with the public, villages, corporations, tribes and affected federal and state agencies.</p> <p>At a specific level, the airstrip will be completely fenced off to avoid and mitigate any potential conflicts between airstrip usage and wildlife, and will also be subject to strict state and federal requirements regarding safe and proper management of hazardous materials, fuel and oily wastes. In addition, Donlin will be required to follow all local, state, and federal laws for the protection of fish and wildlife habitat within the proposed project area for the construction and operation of the airstrip.</p> <p>Calista supports the approval of ADL 232199 because the airstrip and related improvements will create jobs and economic benefits for Shareholders and other Alaskans while safeguarding our subsistence culture and environment, consistent with Calista's values and the vision of our Elders.</p>
	<p>3. ADL 232200 - Lease for the Jungjuk Port facility</p>

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Calista has reviewed the DNR preliminary decision to approve the Donlin application to lease state land to build and operate a proposed Jungjuk port facility on the Kuskokwim River eight miles downstream from Crooked Creek. The Jungjuk Port and related facilities will support construction, operation, and future reclamation activities at the mine. The port will encompass approximately 21 acres, of which about eight acres will be located on submerged state land. The majority of the Jungjuk Port will be situated on land owned by The Kuskokwim and Calista Corporations.

The construction and operation of the Jungjuk Port will create jobs and economic benefits for Shareholders and many other Alaskans, and DNR's PD contains many stipulations and requirements that will ensure protection of our subsistence lifestyle and the environment.

At a general level, construction and operation of the Jungjuk Port will be done in a way that ensures protection of subsistence and the environment by (1) following best management practices, (2) complying with regulations and permit requirements, (3) using proper design and construction methods, (3) implementing federal mitigation methods, (4) compensating for impacts e.g. providing substitute resources, (5) implementing monitoring and adaptive management, (6) complying with the Donlin Gold Project Environmental Impact Statement of April 2018, and (7) continuing to consult with the public, villages, corporations, tribes and affected federal and state agencies.

At a specific level, all movement of hazardous goods at the Jungjuk Port will conform to all federal and state regulatory and permit requirements and will be consistent with approved spill and response plans. The main 2.8 million-gallon above-ground diesel fuel tank, two 25,000 gallon fuel tanks to power a generator and equipment, and a 270 gallon fuel tank for fire suppression equipment, will all be located on the uplands portion of the Jungjuk Port. No fuel or any other hazardous substances, including oils, lubricants, antifreeze, batteries, solvents, and other chemicals will be allowed to be stored on wetlands

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or on the dock overlying submerged lands. The port will be designed and built with sheet piling and armor rock in a manner that avoids and mitigates sedimentation, pollution, disturbance of fish habitat and any unnatural changes to the flow of the Kuskokwim River. Donlin will be required to follow all local, state, and federal laws for the protection of fish and wildlife habitat within the proposed Jungjuk Port project area.

Calista supports the approval of ADL 232200 because construction and operation of the Jungjuk Port will create jobs and economic benefits for Shareholders and other Alaskans while safeguarding our subsistence culture and environment, consistent with Calista's values and the vision of our Elders.

4. ADLs 232334-40 and ADLs 232360-66 - Material Sales and Material Sites

Calista has reviewed the DNR preliminary decision to approve the Donlin application to build and operate seven temporary material sites along the proposed Donlin-Jungjuk road near the Donlin Gold Project. These proposed material sites contain about three million cubic yards of gravel and rock that will be needed to build the proposed Donlin airstrip, Jungjuk Port, Donlin-Jungjuk connection road, airstrip spur roads, and other important Donlin Gold Project infrastructure. The development and use of these material sites will create jobs and economic benefits for Shareholders and many other Alaskans, and DNR's PD contains many stipulations and requirements that will ensure protection of our subsistence lifestyle and the environment. At a general level, development and use of these material sites will be done in a way that ensures protection of subsistence and the environment by (1) following best management practices, (2) complying with regulations and permit requirements, (3) using proper design and construction methods, (3) implementing federal mitigation methods, (4) compensating for impacts e.g. providing substitute resources, (5) implementing monitoring and adaptive management, (6) complying with the Donlin Gold Project Environmental Impact

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Statement of April 2018, and (7) continuing to consult with the public, villages, corporations, tribes and affected federal and state agencies.

At a specific level, Donlin will have temporary fuel storage at the sites for material extraction equipment, but spill response equipment will be available, and personnel will be trained in spill response strategies. Independent fuel storage may also require an additional authorization such as a permit or written approval from DNR prior to commencing use. Adherence to standard material sale contract operating requirements will minimize the risk of leaks or spills. Donlin will follow the Alaska Department of Environmental Conservation's ("ADEC") Best Management Practices for Gravel/Rock Aggregate Extraction Projects, and must adhere to all ADEC environmental regulations, including but not limited to checking for leaks, the use of duckponds during refueling, and secondary containment of the tanks. In addition, the use and storage of all hazardous substances will be done in accordance with existing federal, state, and local laws. Debris contaminated with used motor oil, solvents, or other chemicals will be classified as a hazardous substance and removed from the material site and disposed of pursuant to state and federal law. Finally, Donlin will be required to follow all local, state, and federal laws for the protection of fish and wildlife habitat within the proposed project area for the construction and operation of the Jungjuk Port.

Calista supports the approval of ADLs 232334-40 and ADLs 232360-66 because development and use of these material sites will create jobs and economic benefits for Shareholders and other Alaskans while safeguarding our subsistence culture and environment, consistent with Calista's values and the vision of our Elders.

5. AOL 232346-Easement for access roads
Calista has reviewed the DNR preliminary decision to approve the Donlin application for an easement on state land to build and operate a proposed road from the Donlin mine site to the Jungjuk Port, with

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spur roads to the proposed airstrip. The Donlin-Jungjuk road will begin at the Donlin mine site and run about 27.3 miles across state and private lands to the proposed Jungjuk Port site. The airstrip spur road will intersect with the Donlin-Jungjuk Road and run approximately three miles west across state and private lands to the airstrip. Approximately 18.5 miles of road will be on state lands. The construction and operation of the Donlin-Jungjuk road and airstrip spur roads will create jobs and economic benefits for Shareholders and other Alaskans, and DNR's PD has many stipulations and requirements that will ensure protection of our subsistence lifestyle and the environment.

At a general level, construction and operation of the Donlin-Jungjuk road will be done in a way that ensures protection of subsistence and the environment by (1) following best management practices, (2) complying with regulations and permit requirements, (3) using proper design and construction methods, (3) implementing federal mitigation methods, (4) compensating for impacts e.g. providing substitute resources, (5) implementing monitoring and adaptive management, (6) complying with the Donlin Gold Project Environmental Impact Statement of April 2018, and (7) continuing to consult with the public, villages, corporations, tribes and affected federal and state agencies.

At a specific level, DNR will require Donlin to construct bridges, culverts, geofabric and other components necessary to avoid or mitigate unnecessary impacts on fish, wildlife and the environment. To protect subsistence and other traditional activities on state lands, Donlin will be required to provide a minimum of three public crossings per township (three public crossings every six miles) at locations based on road design and engineering considerations. Donlin will also be required to follow ADEC's Best Management Practices and all ADEC environmental regulations including: checking for leaks, the use of duckponds during refueling, and

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secondary containment of tanks. Use and storage of all hazardous substances will be required to be done in accordance with existing federal, state and local laws. Debris contaminated with used motor oil, solvents, or other chemicals will be classified as a hazardous substance, removed from the project site and disposed of pursuant to state and federal law. Finally, Donlin will be required to follow all local, state, and federal laws for the protection of fish and wildlife habitat in the proposed project area of the Donlin-Jungjuk road and airstrip spur roads.

Calista supports the approval of ADL 232346 because construction and operation of the Donlin-Jungjuk road and airport spur roads will create jobs and economic benefits for Shareholders and other Alaskans while safeguarding our subsistence culture and environment, consistent with Calista's values and the vision of our Elders.

6. ADL 232368 - Easement for Fiber Optic Cable
Calista has reviewed the DNR preliminary decision to approve the Donlin application for a fiber optic easement across approximately 315 miles of State land, running adjacent to the proposed Donlin Gas Pipeline, AD L 231908. This fiber optic cable can bring high-speed telecommunications and internet service to remote, underserved areas of our region for the first time.

The construction and operation of the Donlin fiber optic cable will create jobs and economic benefits for Shareholders and other Alaskans, and DNR's PD has many stipulations and requirements that will ensure protection of our subsistence lifestyle and the environment.

The proposed fiber optic cable will be installed belowground except where above-ground installation is necessary, such as at the Denali Fault crossing. This belowground approach will avoid and mitigate

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possible conflicts with wild animals and traditional subsistence harvesting activities.

In addition, use and storage of all hazardous substances will be done pursuant to all applicable federal, state and local laws. Debris contaminated with used motor oil, solvents, or other chemicals will be classified as a hazardous substance and removed from the easement area and disposed of in accordance with state and federal law. Donlin will be required to follow ADEC's Best Management Practices and must adhere to all ADEC environmental regulations, including but not limited to: checking for leaks, the use of duckponds during refueling, and secondary containment of tanks. Calista supports the approval of ADL 232368 because construction of the Donlin fiber optic cable will create jobs and economic benefits for Shareholders and other Alaskans while safeguarding our subsistence culture and environment, consistent with Calista's values and the vision of our Elders.

7. LAS 31107 and 31108-Land Use Permits for Temporary Access Routes

Calista has reviewed DNR's preliminary decision to approve Donlin's application for temporary land use permits to access two of the material sites along the proposed Donlin-Jungjuk road. The development and use of these material sites will create jobs and economic benefits for Shareholders and many other Alaskans, and DNR's PD contains many stipulations and requirements that will ensure protection of our subsistence lifestyle and the environment.

Construction and use of these access roads will be done in a way that ensures protection of subsistence and the environment by (1) following best management practices, (2) complying with regulations and permit requirements, (3) using proper design and construction methods, (3) implementing federal mitigation methods, (4) compensating for impacts e.g. providing substitute resources, (5)

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	<p>implementing monitoring and adaptive management, (6) complying with the Donlin Gold Project Environmental Impact Statement of April 2018, and (7) continuing to consult with the public, villages, corporations, tribes and affected federal and state agencies.</p> <p>Calista supports the approval of LAS 31107-08 because construction and use of these access roads will create jobs and economic benefits for Shareholders and other Alaskans while safeguarding our subsistence culture and environment, consistent with Calista's values and the vision of our Elders.</p> <p>CONCLUSION</p> <p>Calista and our Shareholders have been consulted, involved and respected by Donlin Gold in a decades-long process to develop the Donlin resource in a sustainable manner that creates jobs and economic benefits for Shareholders while protecting our culture and environment. Donlin's approach is consistent with Calista's values and the vision of our Elders, and we are proud to support approval of the KUAP amendment, leases, material sale/site agreements, easements and land use permits."</p>	
<p>Dewey M. Turney Gakona</p>	<p>"The Donlin Project should be approved as soon as possible. It will improve the economy of the area, the State of Alaska and benefit the USA as well as the Native population in the area. Minerals, Oil and Gas, and other assets are the primary source of income for the State of Alaska. Approve it please."</p>	<p>Comment acknowledged.</p>
<p>Neil Hawthorne Anchorage</p>	<p>"I am against permitting the Donlin mine. I can't understand why our mining laws allow our resources to be taken by a foreign country. Especially with the likely chance of pollution and fish degradation. Please do not permit further exploration or mining."</p>	<p>The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land.</p> <p>Comments about the mine and mining laws are outside the scope of the January and April 2019 public notices for the lease,</p>

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<p>David Nebert Fairbanks</p>	<p>“I’ve been involved in mine waste disposal issues in S.E. Alaska. There was a \$4M+ study funded by US Borax to look at land containment vs. ocean disposal. It was concluded that on-land disposal in perpetuity was impractical. In the end the permit for mining was denied. The main point here is that containment in perpetuity is forever and is not practical or really possible. David Nebert, a retired oceanographer who has been involved with studies dealing with mine waste disposal.”</p>	<p>easement, and land use permit applications and preliminary decisions under consideration by SCRO. The proposed Donlin Gold mine is located on privately owned land and therefore, is not on state-owned land. Comments about the mine are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO. The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land. Comments about the mine are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO. Comment acknowledged. The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land.</p>
<p>Louise C. Lazur Anchorage</p>	<p>“I bring to your attention this morning’s edition of The New York Times. Can you assure the people of Alaska that mining will not create such devastation to Bristol Bay or any other subsistence area of the state as is happening in Brazil? After the deadly collapse of a Brazilian mining dam last month, The Times found dozens just like it perched above cities and towns. (attached New York Times article, “Brumadinho Dam Collapse: A Tidal Wave of Mud”, published February 12, 2019 by Shasta Darlington, James Glanz, Manuela Andreoni, Matthew Bloch, Sergio Peçanha, Anjali Singhvi and Troy Griggs.)</p>	<p>The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land. Comments about the mine are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO. Comment acknowledged. The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land.</p>
<p>Susan Vogt Fairbanks</p>	<p>“This project has disregarded the concerns of those whose food security and clean water are threatened. It gives the mining company everything and screws the local residents ~ NO to this project. This land belongs to all Alaskans and not a private company!!!”</p>	<p>The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land. Comments about the mine are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO. Comment acknowledged. The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land.</p>

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<p>Orutsaramiut Native Council Bethel</p>	<p>Same comment from Village of Kwethluk, see above.</p>	<p>DNR held a 60-day scoping notice in 2016 and solicited public input on the Donlin applications. Those comments were considered as part of SCRO's Preliminary Decisions for the Donlin project. There was a 60-day public comment period in January of 2019, and a 30-day comment period to cure a technical oversight in April of 2019 for the ADL and LAS applications and Preliminary Decisions under consideration by SCRO. Public meetings were held in February and March during the 2019 public comment period in Anchorage, Aniak, Bethel, McGrath, Skwentna and Tyonek.</p> <p>Comments regarding the KUAP Amendment are outside the scope of the January 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO.</p> <p>The KUAP Amendment was prepared by DNR's Resource Assessment and Development Section (RADS) and this comment was forwarded to RADS.</p>
<p>Pete Lowney Valdez</p>	<p>"I am absolutely opposed to this mega mine which endangers the watershed of the Kuskowim river and the subsistence lifestyles it</p>	<p>Comments regarding the mine are outside the scope of the January</p>

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	<p>supports of the native inhabitants of the YK delta. I ask the DNR to extend the public comment period and to categorically deny all permits for this mine and its associated facilities. The long history of mining dam wastewater failures and the recent earthquake activity are grounds enough to reject this project and the pollution and harm it will cause.”</p>	<p>2019 public notice for the preliminary decisions under consideration by SCRO.</p> <p>DNR held a 60-day scoping notice in 2016 and solicited public input on the Donlin applications. Those comments were considered as part of SCRO’s Preliminary Decisions for the Donlin project. The ADL and LAS applications and Preliminary Decisions being considered by SCRO were issued for a 60-day public comment period in January of 2019, and a 30-day comment period to cure a technical oversight in April of 2019. Public meetings were held in February and March during the 2019 public comment period in Anchorage, Aniak, Bethel, McGrath, Skwentna and Tyonek.</p>
<p>Dogan Ozkan Fairbanks</p>	<p>“The federal National Environmental Policy Act and the associated Environmental Impact Statement failed by not adequately incorporating the voices of the residents of the Kuskokwim. The EIS didn’t require Donlin to build or operate the mine to the highest of environmental standards like Dry Stacked tailings, limit barge traffic during smelt spawning season, and it allowed Donlin to use a mining model that will require water treatment in perpetuity. So far, the state permitting process has similarly given the multinational mining corporation everything they want and disregarded the concerns of those whose food security and clean water are threatened. We’re glad to see that DNR is allowing for public comment on the ROW.</p>	<p>The proposed Donlin Gold Mine is located on privately owned land and therefore, is not on state-owned land.</p> <p>The Environmental Impact Statement (EIS) for the Donlin Gold project was prepared by the U.S. Army Corps of Engineers in accordance with the National Environmental Policy Act.</p>

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	<p>As Dave Cannon, an Aniak-based biologist, wrote this week in the Delta Discovery, "(T)he State has never before permitted a mine designed with a pit lake two-miles long and 1,800 deep filled with toxic wastewater that will require water treatment in perpetuity. What about human and mechanical failure? Don't forget, this project is off the road system. Perpetuity is forever!"</p>	<p>The EIS process was done under federal law, not state law. Therefore, comments about the EIS are outside the scope of the January 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice. Comment acknowledged.</p>
<p>Colleen Lobel San Diego CA Mark A. Niver Wasilla</p>	<p>"Protect these animals." "This project can only move forward so long as no salmon producing waterways are removed or altered."</p>	<p>The Alaska Department of Fish and Game, not DNR, has the statutory responsibility for managing anadromous fish populations and habitat.</p>
<p>Lana Johnson Girdwood</p>	<p>"I support the commissioner's amendment to the Kuskokwim Area Plan and for DNR to manage State lands within the areas of revision, consistent with these designations and management intent."</p>	<p>Comments regarding the KUAP Amendment are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice. The KUAP Amendment was prepared by DNR's Resource Assessment and Development Section (RADS) and this comment was forwarded to RADS.</p>
<p>Grant Fairbanks Bethel</p>	<p>In 1986 and thru 1988 I was a staff member on the Kuskokwim Area Plan representing the Village of Sleetmute. Recently I became aware</p>	<p>Comments regarding the KUAP Amendment are outside the scope</p>

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	<p>that there were amendments and preliminary decisions being made without public hearings concerning the Kuskokwim Area Plan. AS 38.04.065(b)(8) requires the Commissioner to provide for meaningful participation in the process by affected local government, land owners and the public. I am a resident of Sleetmute, also a land owner in the effected area. DNR has not reached out to Sleetmute and the area residents in a manner consistent with how the Bristol Bay plan was revised in 2013.</p> <p>The residents of the Kuskokwim must be given the opportunity to participate in the proposed admndments and the decision. I demand that your department stop the process and restart the process with public engagement and village hearings.DNRs short written comment period is criminal in that it circumvents AS 38.04.065(b)(8).</p> <p>We spent over 800 days on the Kuskokwim Area Plan and now DNR offered up a short comment period without proper notification to the area residents and in a manner consistent with the original plan.</p> <p>Your amendments are at the behest of the Donlin Gold Project and they will greatly effect the Kuskokwim residents without their knowledge. These hasty amendment changes and decision is for the benefit of a Canadian mining company and not for the benefit of the Kuskokwim residents.</p> <p>I ask that DNR rescind these proposals until our area is given a proper consultation with village meetings. Donlin Gold is many years away from starting their project, if ever, so there should not be a rush by your department to push this thru."</p>	<p>of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p> <p>The KUAP Amendment was prepared by DNR's Resource Assessment and Development Section (RADS) and this comment was forwarded to RADS.</p>
<p>Organized Village of Kwethluk</p>	<p>The undersigned Tribes submit these comments on the proposed amendments to the Kuskokwim Area Plan and Land Classification Order (SC-88-001A21) and the associated preliminary decisions on applications for support facilities and infrastructure related to the</p>	<p>DNR held a 60-day scoping notice in 2016 and solicited public input on the Donlin applications. Those comments were considered as part</p>

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Donlin Gold Project (ADL 232199, ADL 232200, ADL 232334/ADL 232360, ADL 232335/ADL 232361, ADL 232336/ADL 232362, ADL 232337/ADL 232363, ADL 232338/ADL 232364, ADL 232339/ADL 232365, ADL 232340/ADL 232366, ADL 232346, ADL 232368, LAS 31107, LAS 31108). These proposals would profoundly change our region and affect us and our future generations for all time, yet they reflect no consideration of the impacts on us and no effort to consult with us. We ask that you rescind these proposals until the Department of Natural Resources (DNR) has engaged in meaningful consultation with the Tribes of our region.

We are residents of the communities of the Kuskokwim and Yukon Rivers. DNR's proposed actions are of great concern to us. We rely on the river, its tributaries, and the surrounding lands to fish, hunt, and gather. Our ancestors have occupied this land from time immemorial, and our descendants will have to live for all time with the effects from the mine that these actions support. The amendments and applications DNR proposes to accept the door openly for drastic changes to the region and DNR is acting to shape the future of our region without giving us the opportunity to participate in the process and without fully considering the importance of the uses at stake, in violation of its duties required by law.

The Kuskokwim Area Plan establishes land management intent and policy across our region, pursuant to AS § 38.04.065(b)(8), which requires the commissioner "provide for meaningful participation in the planning process by affected local governments, state and federal agencies, adjacent landowners, and the general public." Furthermore, the statute lays out specific things the commissioner must consider when revising land use plans, such as multiple use and sustained yield, critical environmental concern, and present and potential uses. The proposed amendments merely state the eight factors in that section of the statute have been and DNR provides no explanation of how the amendment is consistent with them.

of SCRO's Preliminary Decisions for the Donlin project. There was a 60-day public comment period in January of 2019, and a 30-day comment period to cure a technical oversight in April of 2019 for the lease, easement, and land use permit applications and Preliminary Decisions under consideration by SCRO that are identified in the public notice. Public meetings were held in February and March during the 2019 public comment period in Anchorage, Aniak, Bethel, McGrath, Skwentna and Tyonek.

Comments regarding the KUAP Amendment are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.

The KUAP Amendment was prepared by DNR's Resource Assessment and Development Section (RADS) and this comment was forwarded to RADS.

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We are sovereign Tribal governments in the local area covered by the plan and where the supporting facilities and infrastructure would be located. We have not been given the opportunity to work with the commissioner to develop these proposed amendments or provide input during the process, as required by law. Instead, the proposed area plan amendments were issued without prior communication with the Tribes and alongside an additional thirteen public notices soliciting comments during a short time period, with no opportunity for Tribal consultation, let alone public hearing.

In sharp contrast to DNR's approach for the Kuskokwim Area Plan amendments, the agency carried out a far more extensive and inclusive planning process when it revised the Bristol Bay Area Plan in 2013. That two-year process involved public meetings in eight communities, a 120-day comment period, two rounds of drafts issued to the public, and collaboration with entities including Tribes, state and federal agencies, Native corporations, local governments, interest groups, and the public.¹ To our knowledge, the Kuskokwim Area Plan amendments are not the result of ongoing collaboration, and there have been no opportunities for Tribal or public engagement other than this short written comment period.

The Area Plan Amendments will allow for substantial changes to the Kuskokwim region, including activities directly associated with the Donlin project as well as future activities resulting from this shift towards developing the region. Allowing expanded development uses and authorizing supporting facilities such as airstrips, port facilities, and access roads threaten the current subsistence uses around those areas and encourages development even beyond the life of the Donlin project.

For example, the proposed Subunit 10c -Kuskokwim River is known as anadromous fish habitat and will be managed for multiple uses, including development. Such uses would include barge traffic associated with the mine, made possible by the Jungjuk Port

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authorized by one of the preliminary decisions that were issued alongside the plan amendments. The ANILCA Section 810 Analysis conducted for the Donlin Gold Project predicts how drastic the impacts will be from this activity: "potential impacts from increased barging on the Kuskokwim River may increase extensive interference with access to the river for subsistence users along the river due to the increase in barging traffic during the short subsistence season open dates for fisheries. The barging impacts may also cause large reductions in the abundance and availability of fish resources."²

Similarly, the amended management intent recognizes moderate to high potential for development and authorizes material sites within several areas along the Kuskokwim, including Getmuna Creek-one of the most productive areas of anadromous fish habitat. Further examples of the proposed decisions adversely impacting subsistence uses include closing multiple areas surrounding the mine site to the public, which would exclude residents from important hunting, trapping, berry-picking, and wood-gathering grounds, and increased truck, airplane, and barge traffic, which could scare away animals. These impacts represent just a few of the direct impacts that would result from opening these areas to development.

With each of these decisions, DNR is steadily paving the way for the Donlin project through vital subsistence resource areas at the behest of the company and interested stakeholders, without consulting the Tribes who will be most affected and whose traditions and way of life are most threatened by the project. The area plan shapes the future of the region, and it is vitally important that we, as representatives of our people and our future generations, are given the opportunity to shape that future.

We have repeatedly requested that DNR and other agencies stop issuing permits and other decisions furthering the Donlin project until the agency engages in meaningful and ongoing consultation with the Tribes of the Yukon-Kuskokwim region.³ We now ask that you

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<p>James P. Warren Fairbanks</p>	<p>rescind these draft amendments and associated decisions and restart the planning process. We ask again that you engage in consultation with us and the broader public and treat this as the critically important process that it is. The residents of the Kuskokwim must be included and given the opportunity to participate in the decisions that shape our future.</p> <p>“I write to oppose the permitting of Donlin Gold pipeline. The EIS is long, complicated, and hard to read with a full understanding. By breaking the question of permitting into so many analytical parts, each part becomes insignificant in terms of impact. But what are the cumulative potential impacts of the permitting of this project? How can we know those cumulative potential impacts?</p> <p>The pipeline being permitted here for right-of-way is the immediate question.</p> <p>(1) The State should engage all Tribes potentially affected by the gas pipeline in meaningful consultations prior to issuing a ROW lease. The EIS discusses some entities in this ROW, but not all affected Tribes are discussed. Have they all been consulted? How wide is the potential effect on the Tribes of the Yukon-Kuskokwim?</p> <p>(2) Donlin.Gold spent \$1.2 million to defeat the Stand for Salmon Ballot Measure 1, telling Alaskans our current Fish Habitat Permits are sufficient to protect salmon. This makes me wonder why the multi-national corporation of this size is so scared of a more stringent permitting process. Now they are saying that the necessary permits will be coming later on in the process, and that ROW permit is just a preliminary matter. Really? How do we know what effects are going to result from the ROW permitting?</p> <p>(3) The ADFG Memo supporting the Donlin Pipeline ROW lease is wholly inadequate for the state to base a ROW decision. Much more study of potential impacts on the streams through which the pipeline will pass is necessary.</p>	
		<p>The Environmental Impact Statement (EIS) for the Donlin Gold project was prepared by the U.S. Army Corps of Engineers in accordance with the federal National Environmental Policy Act. The EIS was done under federal law, not state law.</p> <p>Comments about the pipeline are outside the scope of the January and April 2019 public notices for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p> <p>This comment was forwarded to DNR’s Division of Oil & Gas, State Pipeline Coordinator’s Section, which is adjudicating the gas pipeline right-of-way.</p>

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	<p>(4) The State should require the completion of Title 16/Fish Habitat Permits prior to the issuance of the ROW lease to ensure the protection of salmon and other fish species. The order of permitting is important.</p> <p>The Donlin Gold project is huge, the largest open pit gold mine project ever. The life of this project is supposedly 27+ years, and my experience of projects like Kinross Fort Knox (northeast of Fairbanks) is that they become longer-lived and larger than the original permitting stated. The pipeline itself is an immense project, a 315-mile piece of huge infrastructure with accompanying gravel mines, pads, access roads, and habitat fragmentation. The health and safety of the waters to be crossed is of utmost importance to all Alaskans.</p> <p>The methodology of the EIS is designed to present minimized risk of cumulative impacts. This is a flawed methodology. It is the same method of analysis and presentation used by BLM and other agencies. But it is flawed because you are not presenting potential cumulative impacts. By looking at the parts of analysis separately, you do not put the pieces back together to give a clear sense of cumulative impacts.”</p>	
<p>Chuloonawick Native Village (Comment received after Public Notice comment deadline)</p>	<p>The undersigned Tribal entities have for millennia relied on the lands and waters which will be impacted by the Donlin Gold Mine's natural gas pipeline.</p> <p>At various stages in the permitting process, Tribes have requested advance notification about permitting decisions, and for consultations to discuss the known and likely impacts from the mine and the pipeline on subsistence fish, game and plant resources.</p> <p>Unfortunately, these requests have fallen on deaf ears. Now, we are faced with a right-of-way (ROW) lease which will cut a 315 mile</p>	<p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p> <p>This comment was forwarded to DNR's Division of Oil & Gas, State Pipeline Coordinator's</p>

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	<p>swath from Cook Inlet to the Kuskokwim. Among its many impacts, the pipeline will cut through hundreds of wild salmon streams.</p> <p>The ADFG memo accompanying the draft ROW decision concedes "[t]here are relatively few fish and wildlife historical studies" along the pipeline route, and as a result, ADFG is relying on data collected by the mine proponent, Donlin Gold LLC. Nonetheless, even Donlin found at least 174 stream crossings with fish present.</p> <p>We are writing now because the ADFG analysis on salmon and other fish impacts which DNR relies on to satisfy the ROW law and rules is wholly inadequate. In fact, for 174 fish stream crossings, the ADFG memo accompanying the ROW decision devotes a scant two paragraphs to discussing the impacts of stream trenching across fish streams.</p> <p>Is this the rigorous permitting system the state routinely holds up as a model for the world? We understand ADFG will consider Title 16/Fish Habitat Permits later in the permitting process. But how can the state make a decision to lease state lands - and impact so much fish habitat - without conducting the Title 16 review BEFORE the ROW decision? The state certainly cannot find the ROW lease reflects the best interests of all Alaskans without such an analysis.</p> <p>The Donlin mine set a historic precedent in Alaska when ADFG issued the Title 16 permits for the mine site itself: for the first time in state history, the state allowed the complete destruction of fish habitat with no regard for meaningful mitigation to compensate for these losses.</p> <p>Now, DNR and ADFG are setting the stage to push through the ROW decision without even the most basic information on the fish and fish habitat that will be destroyed and impacted by the pipeline. This piecemeal approach to permitting personifies the "death by a thousand cuts" phenomena, and it helps explain why Alaska's fish</p>	<p>Section, which is adjudicating the gas pipeline right-of-way.</p>
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<p>Cook Inlet Keeper Homer</p>	<p>resources increasingly fail to feed our Native families and our communities.</p> <p>In closing, we ask you to do the permitting for the Donlin pipeline the right way; conduct the studies and consider the Title 16 permits BEFORE issuing a ROW decision. We also request, again, that ADF provide us consultation - as well and public notice and comment - on the Title 16 permits for the pipeline, regardless when they materialize.</p>	
<p>I. Introduction Cook Inletkeeper (Inletkeeper) is a public interest organization formed in 1995 to protect the Cook Inlet watershed and the life it sustains. Below find comments on the above-referenced matter on behalf of Inletkeeper and its more than 8000 members and supporters in southcentral Alaska.</p> <p>II. Comments A. Failure to Analyze Cumulative Impacts: The Commissioner's Proposed Decision attempts to address the impacts of pipeline construction alone. In so doing, the Commissioner has improperly segmented and deferred substantive analysis of several aspects of the Donlin Pipeline Right-of-Way (ROW) project including: (1) airstrips necessary for pipeline construction (ADL232199); (2) seven material sales/sites necessary for pipeline construction (ADL232334/ADL 232360; ADL 232335/ADL 232361; ADL 232336/ADL 232362; ADL 232337/ADL 232363; ADL 232338/ADL 232364; ADL 232339/ADL 232365; ADL 232340/ADL 232366); (3) access road easements (ADL 232346) and temporary access roads (LAS 31107 and LAS 31108), all of which are necessary for pipeline construction.</p>	<p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p> <p>This comment was forwarded to DNR's Division of Oil and Gas State Pipeline Coordinator's Section, which is adjudicating the gas pipeline right-of-way.</p> <p>As stated in the PD for ADL 232199, the airstrip is proposed to support mine operations and future mine reclamation activities. ADL 232199 is not proposed to support the pipeline ROW.</p>	

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By segmenting the pipeline project into separate components, DNR has failed to take a hard look at impacts of all elements of the pipeline project, and of related projects that—together with the pipeline—will have cumulative effects on the State's resources. Furthermore, the Proposed Decision fails to take a hard look at the types of impacts reasonably expected to flow from the various elements of the pipeline project, including but not limited to impacts to fish and wildlife, water quality and quantity, air quality, and soils and vegetation. Finally, the Proposed Decision wholly neglects to address the anticipated effects of climate change, including but not limited to warming stream and air temperatures, reduced ice and snow coverage, ecosystem regimes shifts and changing precipitation patterns.

This Proposed Decision, if finalized, represents a functionally irrevocable disposal of an interest in state land.¹ Under AS 38.35.100, the Commissioner is tasked with determining whether the ROW will serve the present or future public interest, whether the state's property interests will be protected, and whether the applicant will ensure that there will be no significant adverse environmental impact to the State's public trust resources including fish, wildlife, vegetation, biotic resources, subsistence resources, land and water resources. This duty of the Commissioner is rooted in Article VIII of the Alaska Constitution, which requires that natural resources be made available for maximum use, consistent with the public interest, and that wherever occurring in their natural state, fish wildlife and waters are reserved to the people for common use.²

The Proposed Decision fails to protect the public interest because there is no analysis of the cumulative impacts of the Donlin ROW on resources protected in Article VIII. The ROW Proposed Decision does not mention the word cumulative impacts, nor contain any analysis that could be deemed a cumulative impact analysis. As enumerated above, there are multiple aspects of the Donlin ROW

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project that have not been analyzed in the Proposed Decision, and will likely never have a cumulative impact analysis of the kind the Alaska Supreme Court has found to be mandatory under the principles of Article VIII.

In *Sullivan v. Resisting Oil Destruction of Indigenous Lands (REDOIL)*³ the Alaska Supreme Court discussed cumulative impacts analysis required under Article VIII: We are, however, tasked with the duty to ensure that constitutional principles are followed: A bedrock principle in Article VIII of the Alaska Constitution mandates that the State's natural resources are to be made "available for maximum use consistent with the public interest." The constitution entrusts that use of these natural resources are "for the maximum benefit of its people." We have said that to ensure these principles are followed, it is necessary for the State to take a "hard look" at all factors material and relevant to the public interest: this "hard look" includes considering the cumulative impacts of the project."

The Commissioner's responsibilities under AS 38.35.100 specifically reflect the requirement that Article VIII resources are protected. Likewise, the Proposed Decision cites the Public Trust Doctrine, acknowledging the Commissioner's duty to protect public trust resources.⁴ Yet, by failing to conduct a cumulative impacts analysis, the Commissioner failed to carry out her statutory and Constitutional responsibilities. For this reason, the Proposed Decision fails to pass Constitutional muster and must be revised to take a hard look and analyze the cumulative impacts of the Donlin ROW project.

C. Failure to Show Technical Capacity to Protect Fish Resources

In making a determination on a ROW application, the Commissioner has an affirmative duty to find "the applicant has the technical and financial capability to take action to the extent reasonably practical to ...prevent any significant adverse environmental impact, including

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but not limited to erosion of the surface of the land and damage to fish and wildlife and their habitat.”⁵

As a threshold matter, it’s difficult if not impossible for Alaskans to understand how many streams the pipeline and associated activities will cross, and how many of those crossings have resident and/or anadromous fish in them. The Final Environmental Impact Statement (EIS) for the Donlin Gold Project lists 452 stream crossings for the 100 foot-wide pipeline construction corridor; of these streams, the EIS identifies 163 as fish bearing, with 72 fish bearing streams supporting one or more species of salmon.⁶ The EIS then goes on to state “[f]ish presence was documented at 178 of the 574 crossings assessed.”⁷ which creates one level of confusion.

The Proposed Decision, however, muddles the issue even further, stating the “proposed pipeline is expected to cross approximately 300 streams and rivers.”⁸ This figure expressly contradicts the ADFG memo accompanying the Proposed Decision, which states “[c]onsultants for Donlin Gold, LLC identified fish presence in 174 of the 576 stream crossing sites assessed across the entire proposed pipeline route.”⁹ As a result of these significant disparities, it’s virtually impossible to conclude DNR truly has taken a hard look at potential impacts to fish resources from pipeline construction and operation, or has adequately assessed the technical capacity of the applicant to protect these public trust resources.

Furthermore, ADF&G predicts potentially significant impacts to fish and fish habitat during construction from the open-cut trenching of hundreds of streams, including stream sedimentation, bank erosion, disruption to migration, mortality to fish eggs in gravel, loss of riparian vegetation and changes to overwintering areas.

Likewise, ADFG finds the withdrawal of water needed for pipeline construction may result in loss of fish habitat and impingement or

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entrainment of fish in water withdrawal equipment. Furthermore, the disposal of large amounts of water in buried ditches and after pipeline hydrotesting may lead to increased downstream erosion, sedimentation and turbidity in fish streams. Finally, ADFG found that blasting activities, and construction of bridges/culverts, could cause injury and mortality to fish and fish eggs, and the construction of ice bridges in winter could lead to ponding or damming during break-up, leading to downstream erosion and negative impacts to fish passage.

Despite these various and significant risks and impacts to Alaska's prized fish resources, the Commissioner's Proposed Decision makes zero effort to assess whether the applicant does in fact possess the technical capacity to protect fish and water resources. Instead, the Proposed Decision simply points to different plans the applicant must submit, laws and rules it must adhere to, or stipulations it must meet. None of this, however, provides the basis to determine that Donlin has the technical capacity and know-how to trench through hundreds of fish streams with back hoes, or to directionally drill under flowing fish streams, without significant adverse environmental impacts.

Although the ADFG memo accompanying the Proposed Decision highlights a variety of significant concerns, it does so in less than two pages. Regardless whether the number of streams crossings is 300 or 600, this is an unusually superficial review which cannot approach the level of site specific detail needed to assess whether the applicant has the technical capacity to meet the standard in AS 38.35.100(a)(3)(a). Under current laws and rules in Alaska, the only way DNR may permissibly meet the statutory standard in AS 38.35.100 is to review and approve the Title 16 Fish Habitat Permits under the Anadromous Fish Act 11 for each crossing prior to issuing a final ROW determination.

III. Conclusion

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	<p>Alaska boasts some of the last wild salmon runs in the world. Yet piecemeal development and poor agency oversight increasingly fragment the habitat we know salmon need to survive. This “death by a thousand cuts” phenomenon has played out from Europe to New England to the Pacific Northwest, yet Alaska continues to repeat the mistakes made elsewhere.</p> <p>ADFG & DNR have an opportunity to hold Donlin to a higher standard. But both agencies need to take a harder look at the project, address cumulative impacts, and ensure Donlin has the scientific and the technical capacity to do pipeline construction and operation right.</p> <p>Until that time, DNR must withdraw the Proposed Decision, and correct the flaws identified.”</p>	
<p>Steve Perrins Rainy Pass Lodge</p>	<p>“To whom it may concern, I am copying you a hand written letter from Buckley Winkley regarding the donlin creek Pipeline through the Rainy Pass Lodge area. Buckley has been a guide here since 1964. He still guides and lives at Rainy Pass Lodge. The route through our country will Definity close our hunting operations during your construction period. We will lose considerable hunting revenue as well as repeat clients that hunt every year that will end up going elsewhere.</p> <p>Buckey still guides every year in the field and has a trained assistant guide that works with him. Buckley's only income besides social security is his guiding income, as well as museum tour and art work sales he generates from our larger clientele. I have discussed with donlin Creek many times that we are booking clients out 3-4 years and have already sold 1/2 our moose combination hunts in 2022. We have asked them their plan as to how they will compensate us for the income loss as well as loss of repeat clients that will go elsewhere, as they won't just stop hunting. So we will lose some of them period. We always get the same answer, "We</p>	<p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p> <p>This comment was forwarded to DNR's Division of Oil and Gas State Pipeline Coordinator's Section, which is adjudicating the gas pipeline right-of-way.</p>

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<p>Steve Perrins Rainy Pass Lodge</p>	<p>have historically taken care of folks in our path" this is a lousy answer and not one that sets well with us. Recently they held a meeting in Skwentna that Cindy did not even know about until the day before. It had been discussed with her last fall as what may work and then nothing. Mr. Winkley and the Skwentna folks are living in the bush with limited internet and mail every so often. I understand there was only 1-2 folks that attended the meeting. We have been stuck at the lodge for almost 2 weeks now in bad weather and could not get to Skwentna or Anchorage. I believe that Donlin Creek has not been sensitive to this and not been very communicative with them. I personally have had my contact information some how taken off the list twice now over the period of this project and had to request it back on. Please be sure to list Mr. Buckley Winkley's mailing address on all notices and any information that should be sent his way. My mailing address is the same as his and he gets his mail like we do. At a P.O. Box and then sent to the lodge on the next available charter flight."</p> <p>"My name is Steven H. Perrins Master Guide #123 and I reside 1/2 the year at my lodge in The Alaska range. Rainy Pass Lodge was commemorated as the oldest hunting lodge in Alaska by the state legislature celebrating 75 years in service in 2012. We are much more historic than the Iditarod trail, but seem to get less attention and concern when it comes to the Donlin gold proposed Pipeline.</p> <p>I am out of time today as we have spent the last two weeks very involved with the search and rescue of a missing aircraft in our area as well as Iron dog, Ultrasport and the Iditarod races that go through our front yard. I am most concerned about several aspects of the proposed pipeline and the very negative effect it will have on our business. It just came to my attention that the new norther proposed route from the happy river through our valley into the threemile cutoff has three proposed runways that are very problematic. The staging areas and the runways will permanently damage our business as well as damage undocumented salmon streams not mentioned on</p>	
		<p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p> <p>This comment was forwarded to DNR's Division of Oil and Gas State Pipeline Coordinator's Section, which is adjudicating the gas pipeline right-of-way.</p>

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	<p>the plan. There are alternative runways that can be used and we would beg DNR to consider denying these new ones. I am submitting this now unfinished as to make the deadline. And will edit this and re-send it after the 5PM deadline march 22, 2019. I have a letter stating another deadline of March 29th as well as one stating March 26th.</p>	
<p>Steve Perrins Rainy Pass Lodge</p>	<p>Please allow this into record with back up coming.” In regards to the Donlin pipeline I have grave concerns regarding some of the aspects of the plan. There is no doubt that this project will completely disrupt our business while it is being constructed. As Alaska’s oldest hunting and recreation lodge (founded in 1937), we make our entire livelihood off this remote wilderness area. Our guests come here because it is remote and there are not a lot of other people running around. We will not be able to have guests here with those types of activities going on, but even worse than that, if the land is not restored completely to how it was before they came then it will open up the area to other planes and ATV’s which will completely destroy our business and way of life in perpetuity. I was born in Alaska and have been coming out here since I was 1 years old. My own kids are now coming out here and I have invested the last 16 years of my life with the hopes of purchasing the lodge from my parents and continuing the heritage of Alaska’s oldest hunting lodge. Please be sure that the runways and the pipeline trails are re-contoured so that they are un-landable and unpassable by vehicles. That’s the way they are now and that’s the way they must be after Donlin is done. If it is not than there will be ATV’s and roads all over out here and it will completely destroy our business and our way of life.”</p>	<p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice. This comment was forwarded to DNR’s Division of Oil and Gas State Pipeline Coordinator’s Section, which is adjudicating the gas pipeline right-of-way.</p>
<p>Buckey Winkley</p>	<p>Registered guide at Rainy Pass Lodge; not in support of pipeline crossing through the Rainy Pass area as it may affect his hunting guide business.</p>	<p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and</p>

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<p>Dietmar Zimgast Noricum Corporation Los Angeles CA</p>	<p>“The Noricum Corporation is the owner of property in subdivision ADL 213843 and subdivision ADL 213844. The gas pipeline goes 1/4 along over our property. We do not really like that because we plan to build a lodge on the property. Who is responsible for clarifying further details?”</p>	<p>preliminary decisions under consideration by SCRO that are identified in the public notice. This comment was forwarded to DNR’s Division of Oil and Gas State Pipeline Coordinator’s Section, which is adjudicating the gas pipeline right-of-way.</p> <p>Comments about the pipeline are outside the scope of the January and April 2019 public notice for the lease, easement, and land use permit applications and preliminary decisions under consideration by SCRO that are identified in the public notice.</p>
<p>Patrick Zettler Federal Aviation Administration (FAA) Airports Division - Alaska Region Anchorage</p>	<p>“We are in receipt for the 28 January 2019 public notice for the Donlin Gold LLC Applications. Federal Aviation Regulations Part 157 requires all persons proposing any construction, alteration, activation, deactivation, or change to the status or use of a civil or joint-use (civil/military) airport notify the FAA at least 90 days before such initiating activity. The required notification is via submission of FAA form 7480 (attached). Request that as a condition of DNR authorizing ADL 232199, development of an airstrip and related improvements, the applicant be</p>	<p>This comment was forwarded to DNR’s Division of Oil and Gas State Pipeline Coordinator’s Section, which is adjudicating the gas pipeline right-of-way and responsible for clarifying further details about the pipeline.</p> <p>Donlin is required to coordinate with the FAA to secure all required authorizations for airstrip construction, maintenance, and operation.</p>

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	required to file a farm 7480 with the FAA in accordance with 14 CFR Part 157 ...”	
Margaret Henderson Anchorage	Seeking employment with Donlin Gold.	This comment is outside the scope of the Decision.
Charles Schafer New York NY	Offering business services to Donlin Gold.	This comment is outside the scope of the decision.
Mike Kalodimos Morton Grove Illinois Company	Offering business services to Donlin Gold.	This comment is outside the scope of the decision.
Tasha Michael Alaska	Questioning regarding Donlin Gold public meetings.	Not a comment.
Steve Nanney Alaska	Question regarding Donlin Gold applications.	Not a comment.

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ADL 232199, Airstrip - Comments from Donlin Gold LLC		
Committer	Comment	DMLW/SCRO Response
Donlin Gold	<p>(In regard to the Proposed Action section of the Preliminary Decision which states, "...given Donlin's projections of an approximately 27.5-year mine operating life, DMLW is considering the issuance of a 30-year lease under AS 38.05.070(c) and AS 38.05.070(d) to Donlin.");</p> <p>"Donlin requests that the Department consider revising the term of the lease to the requested lease term of 55 years. Donlin is projecting an approximately 27.5-year mine operating life, but construction (estimated to take 3-4 years), reclamation (6 to 8 years) and post-closure activities will require additional time, making a 30-year term insufficient. AS 38.05.070(c) authorizes the Commissioner to issue a lease for up to 55 years if in the best interest of the state; granting a 55-year lease is in the best interest of the state in this case."</p>	<p>No changes have been made to the PD. SCRO has determined that a 30-year lease with a one-time renewal option is in the best interests of the state based on the proposed life of the mine and will also allow a reasonable timeframe for SCRO to review the lease in the future.</p>
Donlin Gold	<p>(In regard to the U.S. Fish and Wildlife Service's comment received during Agency Review of the ADL 232199 lease application):</p> <p>"Donlin agrees with the SCRO response and will work with SCRO and other regulatory agencies to minimize impacts. Not all disturbed areas recommendations can or will be implemented as stated but will be addressed as best practicable; Donlin has committed to following the Avian Habitat guidelines and will comply with the Bald Eagle Protection Act requirements."</p>	<p>Comment acknowledged.</p>
Donlin Gold	<p>(In regard to the Survey section of the Preliminary Decision which states, "The draft survey must be submitted for review to the Survey Section within <u>two years</u> of issuance of the survey instructions.);</p> <p>"Donlin requests the State extend this to "within 5 years"; we also understand this to apply to a boundary survey only and does not indicate an as-built survey would be completed</p>	<p>The SCRO shall extend the time period to five years for when the draft survey must be submitted for review to the Survey Section after issuance of the survey instructions.</p>

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	<p>by this time (construction schedule has yet to be determined). 5 years also matches the early access tenure of the other authorizations related to the infrastructure.”</p>	
<p>Donlin Gold</p>	<p>(In regard to the Entry Authorization section of the Preliminary Decision that states, “...at no less than \$67.29 per acre...”):</p> <p>Donlin would like to discuss and clarify the basis of the fee and what % of appraisal value the State intends to apply to the lease. The result of this discussion may affect the amount on the next page under “Compensation and Appraisal” as well.</p>	<p>A minimum rent determination was completed by DNR’s Appraisal Unit on December 8, 2015 and concluded that comparable sales and available data indicated that the annual rent for the parcel significantly exceeded \$28.47 per acre. Donlin is required to provide an appraisal of the leasehold and the annual lease fee will be set at the value of the appraisal, and not at a percentage of that value.</p>
<p>Donlin Gold</p>	<p>(In regard to the Compensation for Materials section of the Preliminary Decision that states, “...in accordance with AS 38.05.065, Sale or disposal of materials for special purposes...” Overall provision of cut/fill material on site):</p> <p>Donlin would like to discuss the details of the beneficial use provisions with SCRO to clarify when and where this would apply. Charging for material used onsite from cut/fill for improvements seems inconsistent with past projects around Alaska.</p>	<p>Please see the Compensation for Material section of the Final Finding and Decision. Donlin will be charged for material that is taken outside of the construction limits and moved either inside the construction limits or anywhere outside of the construction limits and put to beneficial use. Donlin will not be charged for material that is kept within the construction limits.</p>
<p>Donlin Gold</p>	<p>(In regard to the Reclamation section of the Preliminary Decision, “What level of reclamation constitutes being “good and marketable” is at the discretion of SCRO...”)</p>	<p>SCRO has found Donlin’s reclamation plan for the airstrip to be adequate for issuance of an Entry Authorization. However, SCRO reserves the right to determine what level of</p>

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	<p>“Donlin welcomes further discussion on this provision and requests that the Department indicate if Donlin’s proposed reclamation plan is adequate in the FFD, subject to any necessary changes.”</p>	<p>reclamation is appropriate at the end of the life of the project.</p>
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ADL 232200, Port Lease - Comments from Donlin Gold LLC	
Committer	DMLW/SCRO Response
<p>Donlin Gold</p> <p>(In regard to the Proposed Action section of the Preliminary Decision, "...given Donlin's own projection of an approximately 27.5 year mine operating life, DMLW is considering the issuance of a 30-year lease under AS 38.05.070(c) and AS 38.05.070(d) to Donlin."</p> <p>"Donlin requests that the Department consider revising the term of the lease to the requested lease term of 55 years. Donlin is projecting an approximately 27.5-year mine operating life, but construction (estimated to take 3-4 years), reclamation (6 to 8 years) and post-closure activities will require additional time, making a 30-year term insufficient. AS 38.05.070(c) authorizes the Commissioner to issue a lease for up to 55 years if in the best interest of the state; granting a 55-year lease is in the best interest of the state in this case."</p>	<p>No changes have been made to the PD.</p> <p>SCRO has determined that a 30-year lease with a one-time renewal option is in the best interests of the state based on the proposed life of the mine and will also allow a reasonable timeframe for SCRO to review the lease in the future.</p>
<p>Donlin Gold</p> <p>(In regard to the U.S. Fish and Wildlife Service's comment received during Agency Review of the ADL 232200 lease application):</p> <p>"Donlin agrees with the SCRO response and will work with SCRO and other regulatory agencies to minimize impacts. Not all disturbed areas recommendations can or will be implemented as stated but will be addressed as best practicable. No soil is present on the tidelands lease site. No brush clearing is planned for the tidelands site. Donlin will comply with the Bald Eagle Protection Act legal requirements."</p>	<p>Comment acknowledged.</p>

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<p>Donlin Gold</p>	<p>(In regard to the Survey section of the Preliminary Decision which states, "The draft survey must be submitted for review to the Survey Section within <u>two years</u> of issuance of the survey instructions.):</p> <p>"Donlin requests the State extend this to "within 5 years"; we also understand this to apply to a boundary survey only and does not indicate an as-built survey would be completed by this time (construction schedule has yet to be determined). 5 years also matches the early access tenure of the other authorizations related to the infrastructure."</p>	<p>SCRO shall extend the time period to five years for when the draft survey must be submitted for review to the Survey Section after issuance of the survey instructions.</p>
<p>Donlin Gold</p>	<p>(In regard to the Entry Authorization section of the Preliminary Decision that states, "...at no less than \$1,000.00 per acre..."):</p> <p>"Donlin would like to discuss and clarify the basis of the fee the State intends to apply to the lease. The result of this discussion may affect the amount on the next page under authorizations related to the infrastructure."</p>	<p>A minimum rent determination was completed by DNR's Appraisal Unit on March 15, 2016 and concluded that comparable sales and available data indicated that the annual rent for the parcel significantly exceeded \$1,000.00 per acre. Donlin is required to provide an appraisal of the leasehold and the annual lease fee will be set at the value of the appraisal, and not at a percentage of that value.</p>

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Material Sales/Material Sites	ADL's 232334/232360 through 232340/232366 - Comments from Donlin Gold LLC	DMLW/SCRO Response
Commenter	Comment	DMLW/SCRO Response
Donlin Gold	<p>(In regard to the Proposed Action section of the Preliminary Decision which states that DMLW is considering designation a larger material site than the requested material sale contract of the potential need by Donlin for more rock.)</p> <p>“Donlin supports this approach for the larger overall material sites.”</p>	Comment acknowledged.
Donlin Gold	<p>(In regard to the Proposed Action section of the Preliminary Decision, DMLW is considering to issue a material sales contract, ADL 232334, to Donlin for up to 5 years...”)</p> <p>“We were unable to locate renewal or extension provisions should those be needed. Please ensure there are such provisions in the final documents.”</p>	Under the applicable statute, AS 38.05.555, a material sale contract cannot exceed 5 years. A material sale contract cannot be renewed or extended. Donlin can submit a new application and application fee for a new 5-year contract. However, the material site designation does not have a term.
Donlin Gold	<p>(In regard to the U.S. Fish and Wildlife Service's comment received during Agency Review of the ADL 232200 lease application):</p> <p>“Donlin agrees with the SCRO response and will work with SCRO and other regulatory agencies to minimize impacts. Not all disturbed areas recommendations can or will be implemented as stated but will be addressed as best practicable. No soil is present on the tidelands lease site. No brush clearing is planned for the tidelands site. Donlin will comply with the Bald Eagle Protection Act legal requirements.”</p>	Comment acknowledged.
Donlin Gold	(In regard to the Material Site Discussion section of the Preliminary Decision and activities to be determined to be	Your understanding is correct. Material extracted from within the

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	<p>outside the scope of the decision, including for example stockpiling material, fuel...)</p> <p>“For clarification, we understand “stockpiling material” to apply to material transported to the site may require separate authorization, but stockpiling of material currently onsite (i.e. topsoil, gravel) would be considered as anticipated activities for material extraction approved by this action and would not require separate authorization.”</p>	<p>material sale area may be stored or stockpiled within the boundaries of the material sale area or within the larger boundary of the material site. The material sale contract has a provision about stockpiles.</p>
<p>Donlin Gold</p>	<p>(In regard to the Compensation and Deposit section of the Preliminary Decision which states that unless the applicant, at its own cost, elects to provide an appraisal, acceptable to the department, determining the fair market value of the materials to be sold.)</p> <p>“Donlin would like to (1) get clarification and an example (if available) of what process and methods have been previously accepted, and (2) would like clarification on when Donlin would need to signify it elects this option vs. accepting the current RRSP.”</p>	<p>(1) An appraisal example is not available. If Donlin elects to obtain an appraisal, Donlin may contact DNR’s Review Appraiser for appraisal instructions. The appraisal instructions will include a stipulation that the material must be sold for its “appraised fair market value” in accordance with DNR’s regulation 11 AAC 71.090(d). “Fair market value” is defined in 11 AAC 71.910(6). DNR’s policy is to not provide volume discounts.</p> <p>(2) Donlin must inform SCRO that it is electing to do an appraisal prior to execution of a material sale contract. This advance notice must allow sufficient time for Donlin to complete the appraisal and SCRO’s approval prior to Donlin’s anticipated start date of material extraction.</p>

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<p>Donlin Gold</p>	<p>(In regard to the Compensation and Deposit section of the Preliminary Decision which states the applicant must provide a deposit of at least 10% of the negotiated price.”) “When must this payment be made? We would request it be required at least by Dec 31 of the calendar year ahead of the planned removal of the first material (i.e. initiation of construction.)”</p>	<p>Pursuant to 11 AAC 71.045(d), the initial 10% deposit is due at the signing/execution of the material sale contract. This is a one-time deposit that may be applied to any final payment that may be due. This is a condition of the material sale contract.</p>
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ADL 232368, Fiber Optic Easement - Comments from Donlin Gold LLC	
Commenter	DMLW/SCRO Response
<p>Donlin Gold</p>	<p>(In regard to the Proposed Action section of the Preliminary Decision.) "Donlin requests that the Department consider issuing an easement with an indeterminate term. Other parties may benefit from the use of the installed infrastructure at the time of the mine closure. An indeterminate easement term will allow those parties the continued enjoyment of the fiber optic cable. In the alternative, the Department should issue Donlin an easement with the 30-year term to run coincident with ADL 231908 (from DOG) along with renewal provisions. These terms and extension/renewal provisions are consistent with authorizations Donlin is requesting and received for related approvals from ADNR and BLM for fiber optic system and pipeline system."</p>
<p>Donlin Gold</p>	<p>No changes have been made to the PD.</p> <p>SCRO has determined that a 30-year easement is in the best interests of the state based on the proposed life of the mine and will also allow a reasonable timeframe for SCRO to review the easement in the future.</p> <p>SCRO set an easement term that is consistent with those of the port and airstrip leases which will also be managed by this office.</p> <p>Easements issued pursuant to AS 38.05.850 lack a regulatory provision for "renewal" and therefore must be reissued based on reapplication at the end of the stated term.</p> <p>Any future interest in or assignment of the easement to another party will entail reconsideration and potential amendment of the easement term at the time the request is made.</p> <p>Thank you for the clarification and no changes have been made to the PD.</p>
<p>Donlin Gold</p>	<p>(In regard to the Third Party Interests section of the Preliminary Decision.)</p>

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	<p>“Prior to commencement of construction activities, Donlin will, at the discretion of SCRO, be required to obtain and provide necessary agreements or letters of non-objection from currently authorized parties for which the fiber optic line will directly overlay existing property boundaries.”</p>	<p>SCRO specified that the fiber optic cable easement “will potentially affect” listed third party interests. SCRO was more rather than less inclusive of near-vicinity authorizations in order to reduce the likelihood of additional future public notice requirements if minor changes to current location information is required as construction plans are refined.</p>
<p>Donlin Gold</p>	<p>(In regard to the Access section of the Preliminary Decision.)</p> <p>“Clarification – Donlin Gold is NOT proposing any permanent access improvements from existing public access facilities, nor will any access be constructed and maintained along the corridor except for temporary access built to enable construction. We realize ADNDR understands this but wanted to make sure that is clear to the public. As written, this provision could be mis-constructed.”</p>	<p>Thank you for the clarification and no changes have been made to the PD.</p> <p>The nature and duration of Donlin’s future access improvements were not specified in the Preliminary Decision for ADL 232368 because they are outside the scope of SCRO’s decision for fiber optic cable easement.</p>
<p>Donlin Gold</p>	<p>(In regard to the Agency Comments section of the Preliminary Decision.)</p> <p>“Donlin agrees with the SCRO response and will work with SCRO and other regulatory agencies to minimize impacts. Not all disturbed areas recommendations can or will be implemented as stated but will be addressed as best practicable; Donlin has committed to following the Avian Habitat guidelines and will comply with the Bald Eagle Protection Act requirements.”</p>	<p>Comment acknowledged.</p>
<p>Donlin Gold</p>	<p>(In regard to the Easement Performance Guaranty (bonding) section of the Preliminary Decision.)</p>	<p>Correction acknowledged.</p>

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<p>Donlin Gold</p>	<p>“Correction - In accordance with AS 38.05.035, AS 38.05.860 and 11 AAC 96.060(a).” (In regard to the Easement Performance Guaranty (bonding) section of the Preliminary Decision.) “This bond seems high for the purposes intended. Donlin would like to discuss the basis of determining the amount as well as the form of bond (cash) designated.”</p>	<p>Comment acknowledged. This Decision has been revised through the Final Finding and Decision to reflect that a Performance Guaranty for the fiber optic cable easement has been incorporated into a Financial Assurances Agreement between DNR and Donlin that will address the co-located infrastructure described in both ADL 232368 concerning the fiber optic cable easement and in ADL 231908 concerning the natural gas pipeline right-of-way lease.</p>
<p>Donlin Gold</p>	<p>(In regard to the Easement Performance Guaranty [bonding] section of the Preliminary Decision.) “Two points on this: (1) timing – Donlin requests that this bond be required prior to construction and not at the time of issuance of the ROW; and (2) we would like to discuss the bond with SCRO and DOG to determine what activities would be covered and avoid double-bonding the same activity, since the pipeline and fiber optic line are co-located.”</p>	<p>Comment acknowledged. This Decision has been revised through the Final Finding and Decision to reflect that a Performance Guaranty for the fiber optic cable easement has been incorporated into a Financial Assurances Agreement between DNR and Donlin that will address the co-located infrastructure described in both ADL 232368 concerning the fiber optic cable easement and in ADL 231908 concerning the</p>

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<p>Donlin Gold</p>	<p>(In regard to the Entry Authorization section of the Preliminary Decision.)</p> <p>“It seems counter-intuitive that the per-acre early entry fee would be higher than the lease fee charged after facilities are installed and the lessee enjoys benefits from the land. Is there an option to just have 11 AAC 05.070(d)(2)(A)(i) and DMLW Director’s Fee Order Number 3, the current annual fee for a private, non-exclusive use easement apply for early entry as well as the post-survey portion of the lease?”</p>	<p>natural gas pipeline right-of-way lease.</p> <p>Two separate provisions of DNR’s July, 2018-adopted fee schedule apply to the easement described in ADL 232368: 11 AAC 05.070(d)(2)(A)(i) is the annual fee for a private, non-exclusive easement and 11 AAC 05.070(d)(2)(I) is for an Entry Authorization. According to Director’s Fee Order Number 3 (for projects larger than two acres), the per-acre fee for a private, non-exclusive easement is \$240 while the per-acre fee for the Entry Authorization is \$120. The combined per-acre fee for use of state lands during the Entry Authorization phase is \$360 per year.</p> <p>The annual fee will reduce to \$240 per acre once a Final Easement has been issued (i.e., after work approved in the Entry Authorization has been completed).</p>
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ADL 232346, Access Road Easement Comments from Donlin Gold LLC		
Commenter	Commenter	Commenter
Donlin Gold	<p>(In regard to the Proposed Action section of the Preliminary Decision.)</p> <p>“Donlin requests that the Department consider issuing it a perpetual easement term. Construction (3-4 year), operations (27 years), reclamation and closure (up to 8 years) and identified long-term post-closure activities make a 30-year term insufficient. In the alternative, the Department should issue Donlin an easement with a 55-year term along with a renewal provision for a second term of equal or lesser length as allowed by Statute.”</p>	<p>No changes have been made to the PD.</p> <p>SCRO has determined that a 30-year easement is in the best interests of the state based on the proposed life of the mine and will also allow a reasonable timeframe for SCRO to review the easement in the future.</p> <p>SCRO set an easement term that is consistent with the term of the port and airstrip lease authorizations which will also be managed by this office.</p> <p>Easements issued by SCRO pursuant to AS 38.05.850 lack a regulatory provision for “renewal” and therefore must be reissued based on reapplication at the end of the stated term.</p>
Donlin Gold	<p>(In regard to the Agency Comments section of the Preliminary Decision.)</p> <p>“Donlin agrees with the SCRO response and will work with SCRO and other regulatory agencies to minimize impacts. ADF&G has reviewed all stream crossings and Title 16 permits were issued from the agency for these crossings in August 2018. Not all disturbed areas recommendations can or will be implemented as stated but will be addressed as best practicable; Donlin has committed to following the</p>	<p>Comment acknowledged.</p>

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Donlin Gold	<p>Avian Habitat guidelines and will comply with the Bald Eagle Protection Act requirements.” (In regard to the Easement Discussion section of the Preliminary Decision.)</p> <p>“Due to the terrain, vegetation, remote location, low use and very limited to non-existent trails and access in this area, we would propose the following change, to avoid being required to build and design a crossing when no physically realistic public use may exist (Donlin has committed to providing crossings where an existing RST easement exists, of which 1 has been identified):</p> <p>In addition, on state lands Donlin will be required to provide a minimum of up to three public crossings per township, at feasible locations...”</p>	<p>No changes have been made to the PD.</p> <p>SCRO must accommodate public access across the proposed private exclusive easement for the road in order for the public to use those public lands on either side of this proposed linear corridor authorization.</p>
Donlin Gold	<p>(In regard to the Easement Performance Guaranty [bonding] section of the Preliminary Decision.)</p> <p>“Donlin would like to discuss the coverage contemplated by each bond, the amounts, type and the timing for posting and release of each with SCRO staff.”</p>	<p>Comment acknowledged. This passage in the Preliminary Decision has been revised through the Final Finding and Decision to reflect that a Performance Guaranty will be delayed until construction activities commence.</p>
Donlin Gold	<p>(In regard to the Entry Authorization and Final Easement Compensation section of the Preliminary Decision.)</p> <p>“It seems counter-intuitive that the per-acre early entry fee would be higher for the larger planning and construction easement than the lease fee charged after facilities are installed and the lessee enjoys benefits from the land. Is there an option to just have 11 AAC 05.070(d)(2)(A)(i) and DMLW Director’s Fee Order Number 3, the current annual fee for a private, non-exclusive use easement apply for early entry as well as the post-survey portion of the lease?”</p>	<p>Two provisions of DNR’s 2018-adopted fee schedule apply to this project: 11 AAC 05.070(d)(2)(A)(ii) for a private, exclusive easement and 11 AAC 05.070(d)(2)(I) for an Entry Authorization to perform site development within the eventual Final Easement area.</p>

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	<p>According to Director's Fee Order Number 3, the per-acre fee for a private, exclusive easement is the yearly fair market rental value of the land but no less than the fee prescribed in 11 AAC 05.070(d)(2)(i) for a private, non-exclusive easement. Because survey and appraisal of the private, exclusive easement area has not yet been accomplished, SCRO relied on the statutory fee stated in 11 AAC 05.070(d)(2)(i) to provide the estimate of \$240 per-acre for the Final Easement area described in ADL 232346. In addition, the fee for an Entry Authorization as presented in Director's Fee Order Number 3 for projects larger than two acres is \$120 per acre. Therefore, the combined per-acre fee for use of state lands during the Entry Authorization phase is \$360 per year. The annual fee will reduce to the greater of the statutory fee found at 11 AAC 05.070(d)(2)(i) or the appraised</p>
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		<p>fee per 11 AAC 05.070(d)(2)(ii) once all work approved in the Entry Authorization, including the required fair market appraisal, has been approved. The final easement fee will be subject to adjustment at five-year intervals as required in 11 AAC 05.070(d)(2)(ii).</p>
<p>Donlin Gold</p>	<p>(In regard to the Final Easement Compensation section of the Preliminary Decision.)</p> <p>“Donlin would like to discuss the proposed application of this provision and look at comparable application in other access construction projects in Alaska. It is our understanding that material moved from one lease or easement to another trigger’s compensation to the state, but material present on site used for improvement on that same lease does not fall under the provisions of a sale (i.e. for cut and fill operations, the material is not subject to compensation).”</p>	<p>These topics were addressed in discussions between representatives from Donlin and SCRO at a meeting held on November 7th & 12th, 2019. This section in the Preliminary Decision has been rewritten in the Final Finding and Decision to clarify when Donlin will be charged for the use of material.</p>