

**DRAFT**

**Nixon Fork Mine**

**Reclamation Plan Approval**

(A20125562)

DEPARTMENT OF NATURAL RESOURCES  
Division of Mining, Land and Water

April \_\_, 2012

The Alaska Department of Natural Resources, Division of Mining, Land and Water (ADNR), in accordance with and subject to Alaska Statute 27.19 (Reclamation) and the Alaska Administrative Code, Title 11, Chapter 97 (Mining Reclamation), approves the Nixon Fork Mine Plan of Operations & Reclamation Plan (Version 2, Volume II of II); i.e. the Reclamation Plan for the Nixon Fork Mine (A20125562) submitted by:

Mystery Creek Resources, Inc.  
1200 West 73<sup>rd</sup> Avenue, Suite 1100  
Vancouver, BC, V6P 6G5, Canada

Throughout this document, unless otherwise specifically indicated, reference to Fire River Gold, FRG, Mystery Creek Resources, Inc., MCRI, or permittee are considered a reference to Mystery Creek Resources, Inc.

Throughout this document, unless otherwise specifically indicated, reference to the State, Department, ADNR, DNR or Division are considered a reference to the State of Alaska – Department of Natural Resources – Division of Mining, Land & Water.

Throughout this document, the Reclamation Plan is considered to consist of: Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume I of II (November 2011); Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume II of II (November 2011); EXCEL Reclamation Spreadsheets revisions 2011 final.xlsx; and the Nixon Fork Mine Monitoring Plan (November 2011). Reference to any of these documents throughout this Reclamation Plan Approval is considered to be a reference to the Reclamation Plan. Likewise all stipulations associated with any approvals of these plans are considered to be a requirement of the Reclamation Plan Approval.

Effective dates of this plan approval are **April \_\_\_\_\_ 2012** through **April \_\_\_\_\_ 2017**, unless sooner revoked for cause; however, Mystery Creek Resources, Inc.'s obligations under the terms and conditions of this plan approval shall continue beyond the effective term of this plan approval, unless sooner terminated in accordance with the provisions of this plan approval, until completion of all requirements under and pursuant to the Reclamation Plan Approval.

This plan approval is for activities upon State managed lands and federal managed lands encompassed by the Nixon Fork Mine as described in the Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volumes I and II (November 2011).

This Reclamation Plan Approval does not constitute certification of any property right or land status claimed by the applicant.

The Reclamation Plan was found to be complete and is approved by ADNR with the following conditions:

## GENERAL STIPULATIONS

**Financial Assurance.** This Reclamation Plan Approval does not take effect until Mystery Creek Resources, Inc. submits financial assurance in a form approved by ADNR. In accordance with the terms of MCRI's financial assurance and applicable regulations, the financial assurance shall not be released until all affected areas have been reclaimed and are approved by the Authorized Officer and all other terms of this Reclamation Plan Approval are met. Modifications to this Reclamation Plan and notification of Temporary or Permanent Closure may, at ADNR's discretion, require review and update of the amount and/or the form of the financial assurance. The total financial assurance amount of \$6,033,000.00 has been approved for the Nixon Fork Mine. ADNR may require or allow revisions to the financial responsibility cost estimates based upon: (1) monitoring results at the Nixon Fork Mine; (2) changes in costs for labor, equipment, fuel, or chemicals; (3) changes in the scope and nature of work required under the Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume I of II (November 2011), and Version 2, Volume II of II (November 2011); and/or, (4) completed and approved reclamation.

**Terms of this Plan Approval.** The Terms and Conditions contained within the Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume I of II (November 2011); Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume II of II (November 2011); EXCEL Reclamation Spreadsheets revisions 2011 final.xlsx; and the Nixon Fork Mine Monitoring Plan (November 2011) are hereby incorporated by reference as stipulations of this Reclamation Plan Approval. If there is a difference between the Reclamation Plan as submitted and the terms contained within this Reclamation Plan Approval, the terms contained within this Reclamation Plan Approval take precedence. Changes to the documents incorporated herein must be approved by ADNR if they affect this Reclamation Plan Approval. If ADNR approves the changes, they become terms of this Reclamation Plan Approval.

**Authorized Officer.** The Authorized Officer for ADNR is the Director of the Division of Mining, Land and Water or his or her designee. The Authorized Officer is designated as Joe Wehrman. The Authorized Officer may be contacted at 550 West 7<sup>th</sup> Avenue, Suite 900D, Anchorage, Alaska 99501-3577, Attention: Joe Wehrman or joe.wehrman@alaska.gov, telephone (907) 269-8630, and fax (907) 269-8930. Mystery Creek Resources, Inc. will be notified of changes to the authorized officer as needed.

**Alaska Historic Preservation Act.** If burials or human remains are discovered as a result of or during the activities authorized by this Reclamation Plan Approval, all activities that would disturb such remains shall be stopped and measures taken to protect the site. The State Historic Preservation Officer (907-269-8721) and the State Troopers shall be contacted immediately to ensure full compliance with state laws.

The Alaska Historic Preservation Act (AS41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any State-owned historic, prehistoric

(paleontological) or archaeological site without a permit from the Commissioner. If cultural or paleontological resources are discovered as a result of or during the activities authorized by this plan approval, all activities which would disturb such resources shall be stopped and measures taken to protect the site. The State Historic Preservation Officer (907-269-8721) shall be contacted immediately so that compliance with state laws may begin. The Authorized Officer shall be provided copies of all notifications sent to the State Historic Preservation Officer.

- Certain historic structures at the Nixon Fork Project Area have been determined to be eligible for inclusion in the National Registry of Historic Places. These include: the Treadwell Stamp Mill, tailings and two bunkhouses; the Mespelt Camp; and the Winan Cabin. These facilities are located within the “Stamp Mill Area” as designated on Mystery Creek Resources Map Figure 3-3 Central Operations Area Detail. MCRI is cautioned not to conduct surface disturbing activities that would affect this area.
- The State Historic Preservation Officer has recommended that certain other historic structures be evaluated for eligibility to the National Registry; specifically, the two cabins located along the roads running between the borrow areas and the tailings impoundment area as illustrated on Mystery Creek Resources Map Figure 3-3 Central Operations Area Detail. MCRI is cautioned not to conduct surface disturbing activities that would affect these structures.

**Forestry Resources.** Clearing of vegetation should be kept to the minimum necessary to conduct the authorized mineral exploration, project development and mining.

Treatment of Spruce Trees (other than black spruce): In order to minimize the spread of destructive forest insects and reduce the risk of wildfire, MCRI shall perform one or more of the following practices within one year of clearing or cutting spruce trees, unless otherwise approved by the Authorized Officer. Downed and removed spruce trees or limbs greater than five inches in diameter must be treated in a manner approved by ADNR, if they are not burned, buried (in a manner approved by the Authorized Officer), manufactured, or otherwise used in a way that will prevent the spread of bark beetles. Treatments include bucking trees to 4-foot lengths and scoring the bark along the full-length of the 4-foot segments to facilitate drying. The ADNR may, in its discretion, approve other methods for disposal or treatment of downed spruce trees to minimize the spread of bark beetles or reduce the risk of wildfire.

No special treatment is required for spruce trees, limbs or slash less than five inches in diameter; or for aspen, birch or other non-spruce species left on-site.

**Reporting.** The results of monitoring, required by the Nixon Fork Mine Monitoring Plan (November 2011) and any other monitoring required by this Reclamation Plan Approval, obtained during a reporting period shall be summarized and submitted to the

Authorized Officer quarterly, no later than 60 days after the last day of the first through third calendar quarters, in hard copy and electronic format acceptable to ADNR. Any other monitoring required by State or federal authorizations shall be provided upon request of the Authorized Officer. An annual report will be due by March 1<sup>st</sup> that summarizes activities (surface disturbance, mining, construction, reclamation, monitoring, research, and water treatment / discharge) conducted during the previous calendar year, that discusses relevant plans for the upcoming year, and includes annual monitoring data for the reporting year, as well as, all historic data in a spreadsheet form (preferably EXCEL). The annual report shall contain a map and table showing the location and quantities of existing growth medium stockpiles. The annual report shall also address the adequacy of the financial assurance, including, but not limited to, inflation, significant changes in reclamation activity costs, concurrent reclamation accomplished and approved, expansion or other changes to the operation of the facility, and monitoring results.

An annual meeting or teleconference with ADNR will be held in conjunction with ADEC and be open to the public in which the annual report will be presented. The annual report shall be provided to ADNR two weeks prior to the annual meeting.

Distribution of hard copy annual reports should be sent to the addresses below, and digital copies of both quarterly and annual reports submitted to email contacts provided: ADNR, 3700 Airport Way, Fairbanks, AK 99709-4699 (Steve McGroarty, [steve.mcgroarty@alaska.gov](mailto:steve.mcgroarty@alaska.gov) and Jim Vohden, [jim.vohden@alaska.gov](mailto:jim.vohden@alaska.gov)); ADNR Office of Project Management and Permitting, 550 West 7<sup>th</sup> Avenue, Suite 900D, Anchorage, AK 99501-3577 (Sharmon Stambaugh, [sharmon.stambaugh@alaska.gov](mailto:sharmon.stambaugh@alaska.gov)); ADF&G Habitat Division, 1300 College Road, Fairbanks, AK 99701-1599 (Laura Jacobs, [laura.jacobs@alaska.gov](mailto:laura.jacobs@alaska.gov)); ADEC Wastewater Discharge Program, 610 University Avenue, Fairbanks, AK 99709-3643 (Tim Pilon, [tim.pilon@alaska.gov](mailto:tim.pilon@alaska.gov)); and BLM. Amendments to this distribution list will be provided to Mystery Creek Resources, Inc. as needed.

**As-Built Maps.** Mystery Creek Resources, Inc. shall submit to ADNR an “as built” map in conjunction with each annual report (unless otherwise approved by ADNR). The map (or maps) shall illustrate the current development of all facilities within the project area as described in the Nixon Fork Mine Reclamation Plan. The plan maps shall show: cleared and grubbed areas; growth medium stockpiles; waste rock stockpiles; roads; material sites; tailings facility; filtered tailings disposal site; adits; shafts; facility construction; any unreclaimed exploration disturbance; and, completed reclamation. Maps shall be 1”-500’ or other appropriate scale necessary to review the development of individual facilities. AutoCAD maps and drawings shall be provided to ADNR upon request.

Mystery Creek Resources shall submit to ADNR an “as built” map in conjunction with a Final Mine Closure Report (unless otherwise approved by ADNR). The map (or maps) shall illustrate the final reclamation and closure of all facilities within the project area as described in the Nixon Fork Mine Reclamation Plan. The plan maps

shall show the location and size of: the dry stack tailings storage facility; any permanent storm water diversion channels; the inert solid waste monofill; closed shafts and adits; and, waste rock dumps. Maps shall be 1"=500' or other appropriate scale necessary to review the closure of individual facilities. The Final Closure Report should summarize all completed closure related activities.

**Temporary Closure.** MCRI shall notify the Authorized Officer in writing at least thirty (30) days prior to any planned Temporary Closure (suspension of mining and milling/processing operations) of ninety (90) days or longer. Permittee shall notify the Authorized Officer of any unanticipated Temporary Closure expected to last ninety (90) days or more within ten (10) days of the first day of the Temporary Closure. The notice shall state the nature and reason for the Temporary Closure, the anticipated duration of the Temporary Closure, what actions will be taken to maintain compliance with project permits and plan approvals, and any event which would reasonably be anticipated to result in the resumption of mining or milling activities or the permanent cessation of mining or milling activities. Copies of any notices or plans associated with a temporary closure of the Nixon Fork Mine that are provided to the US Bureau of Land Management, Alaska Department of Environmental Conservation or the Alaska Department of Natural Resources Dam Safety and Construction Unit shall also be sent to the Authorized Officer.

Mining or milling operations must resume for not less than ninety (90) consecutive days in order to terminate the running of the Temporary Closure. If a Temporary Closure extends beyond three (3) years, the Department may deem mining and milling operations to be permanently abandoned or ceased, whereupon final reclamation must commence unless otherwise agreed by the Department.

MCRI shall ensure that the project area and facilities are maintained in a safe condition during a Temporary Closure. MCRI shall not allow the project area and facilities to be degraded or eroded, or allow facilities to fall into a state of disrepair during or as a result of the Temporary Closure. Action shall be taken to prevent or mitigate any impacts to ground or surface waters from project facilities. All collection, treatment, maintenance, and monitoring activities required under project permits or plan approvals shall be performed under any Temporary Closure.

**Abandonment or Cessation of Operations.** Not later than ninety (90) days after the permanent cessation or abandonment of active mining and milling operations at the Nixon Fork Mine, MCRI shall notify the Authorized Officer of the cessation of operations, and submit to ADNR an updated final Reclamation and Closure Plan, schedule and cost estimate, and Monitoring Plan for approval. The updated plans must address current conditions at the site. Permanent reclamation of individual facilities must be implemented and completed in accordance with the conditions of the Reclamation Plan Approval.

Permanent reclamation of a facility will be complete when the following criteria are met:

- All terms of the current Nixon Fork Mine Reclamation Plan and conditions of this Reclamation Plan Approval have been met;
- All performance standards under 11 AAC 97.200, 11 AAC 97.220 and 11 AAC 97.240 have been achieved;
- Active water treatment is not required for any water discharged from the facility, and ground and surface water discharged from the mine site or facilities meets water quality criteria; and
- A stable vegetative cover is established per the requirements of the Reclamation Plan Approval.

**Post-Closure.** After mining and milling operations have permanently ceased and after completion of reclamation of the site in accordance with the Nixon Fork Mine Reclamation Plan and conditions of this Reclamation Plan Approval, MCRI shall maintain the site during the post-closure monitoring period, correcting any erosion, settlement or other degradation of the dam, tailings facility, tailings facility diversion ditches, filtered tailings disposal site, waste rock disposal sites, and any other facilities that impair water quality or threaten the environment.

**Environmental Audit.** Periodic third-party environmental audits are required to verify: 1) MCRI's compliance with plan approvals, permits and applicable environmental laws and regulations; 2) that MCRI controls provide reasonable assurances that environmental objectives in the current Reclamation Plan, and relevant permits and plan approvals are being met; 3) that the controls are functioning as intended; 4) that the State permit and plan approval conditions provide environmental protection as required; 5) that both the facility management and regulatory oversight provide reasonable assurances that the facility and controls are functioning as intended to protect environmental resources; and 6) the adequacy of the financial assurance provided to ensure reclamation.

The next audit shall start in 2016, unless otherwise approved by ADNR, or prior to final closure if final closure occurs prior to 2016. Subsequent environmental audits shall occur every five years, unless otherwise approved by ADNR. Audits shall be timed so the auditor's site visit occurs during the snow free season, far enough in advance of the deadline for the submittal of an updated Reclamation Plan and associated supporting documents including Basis of Estimate Reports and EXCEL spreadsheets for Nixon Fork Mine cost estimates, so that the results of the audit can be taken into account in the permit renewal process.

In January of 2016, the parties shall confer to discuss the minimum qualifications of and process for selecting an independent, third-party auditor, and the minimum requirements for the scope of the audit. The third party contractor and the scope of the audit should be mutually agreed upon by ADNR, ADEC and MCRI, but in the event that agreement cannot be reached, the agencies retain the final contractor selection and scope of audit decisions. The environmental audits required by the Reclamation Plan Approval and those required by the ADEC Waste Management Permit refer to the same audits, conducted to fulfill the requirements of both authorizations.

The audit results will be used by MCRI to assist in updating policies, plans, procedures, and cost estimates and by the ADNR in determining compliance with the Reclamation Plan Approval and in evaluating the adequacy of the financial assurance. The audit will be an objective, systematic, documented review of the conditions, operations, and practices related to plan approval, permit requirements and facility management conducted under this Reclamation Plan Approval. The audit will include all aspects of the Nixon Fork Mine, including, but not limited to, the access roads, material sites, development rock dumps, mine, filtered tailings disposal site, and tailings facility. The audit will be paid for by MCRI.

**Erosion Standard.** Erosion features which form in areas that have been recontoured and covered with growth medium must be stabilized if they affect the long-term stability of the reclaimed area. Actions to stabilize erosion features shall be conducted in a manner that minimizes disturbance to adjacent areas. Subsequent inspections shall be completed to verify that rills and gullies do not persist. If chronic or long-term erosion features are identified, then remediation of the site drainage that is contributing to the formation of the rills and gullies shall be completed.

**Invasive Weed Control.** Mystery Creek Resources shall inspect revegetated areas to identify invasive plant species and eradicate these species to the extent practicable. If invasive plant species are identified, Mystery Creek Resources shall notify the Authorized Officer. If equipment is brought into the area from regions with known populations of invasive plant species or noxious weeds, that equipment should be inspected and thoroughly cleaned to remove soil, plant and seed contaminants prior to use at the mine site. If a population of noxious weeds is found at the mine site, equipment should be inspected and thoroughly cleaned to remove soil, plant and seed contaminants prior to use at another area at the mine site.

## **PROJECT DOCUMENT - SPECIFIC STIPULATIONS**

### **Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Vol. I of II (November 2011)**

Section 3.4.3 Mine Development Rock: Prior to significant expansion of the Crystal Development Rock Dump; or by September 1, 2012 (unless otherwise approved by the Authorized Officer); MCRI shall provide ADNR a Site Clearing & Stockpiling Plan, for review and approval, that indicates the acreage to be cleared, anticipated schedule, the estimated quantity of growth medium to be salvaged, and stockpile locations (i.e. growth medium, overburden, and vegetative debris).

Section 3.6.2 Tailings Storage Facility (TSF): Unless otherwise approved by the Authorized Officer, prior to resuming placement of tailings into the existing tailings facility, MCRI shall provide ADNR with facility repair and development plans, for



review and approval, including an engineering evaluation that demonstrates the geotechnical and thermal stability of the TSF during operation and in the closure configuration.

## **Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume II of II (November 2011)**

Section 2.2.1 Seeding and Fertilizer Requirements: A Growth Medium Replacement Plan for the Nixon Fork Mine shall be provided to ADNR by March 31, 2016 for review and approval, unless otherwise approved by ADNR. Fertilizer shall not be applied within 100 feet of waterbodies.

Section 2.2.2 Site Roadways, Subtask b – Reclamation of Roadway Surfaces: Unless otherwise approved by ADNR, reclamation of road segments that exist as cut and fill profiles shall be reclaimed with an excavator such that the fill is pulled back and placed in the cut, to the extent practicable.

Section 2.3.1 Mystery Development Rock Stockpile: Prior to initiation of reclamation of the development rock dumps, MCRI shall submit to ADNR final facility closure plans, for review and approval that are developed to minimize surface run-on water and infiltration into the development rock dumps. The final facility closure plans shall include consideration of water quality monitoring data and development rock monitoring results and shall specify final slopes, cover design, growth medium replacement depths, and surface flow diversion ditches. Plans should also describe the source of growth medium for facility cover construction.

Section 2.3.2 Crystal Development Rock Dump: Prior to initiation of reclamation of the development rock dumps, MCRI shall submit to ADNR final facility closure plans, for review and approval that are developed to minimize surface run-on water and infiltration into the development rock dumps. The final facility closure plans shall include consideration of water quality monitoring data and development rock monitoring results and shall specify final slopes, cover design, growth medium replacement depths, and surface flow diversion ditches. Plans should also describe the source of growth medium for facility cover construction. The placement of two (2) inches of growth medium on the recontoured Crystal Development Rock Dump is not approved at this time; please see stipulation for Section 2.2.1.

2.3.3 Rock Quarry: The need for placement of growth medium during reclamation of the site will be determined during field inspections by ADNR prior to reclamation of the site.

Section 2.4.1 Main Tailings Impoundment and Pipeline Corridor: MCRI shall not utilize waste rock from the Crystal Waste Rock Dump for the two (2) feet cover on the Tailings Impoundment, unless geochemical characterization of this material demonstrates that it is a suitable capping material and the use is specifically authorized by the Authorized Officer.

Section 2.4.1.5 TSF Closure Assumption: If MCRI elects to reclaim the Main Tailings Impoundment in an empty configuration, MCRI shall submit to ADNR revised reclamation plans for the facility.

Section 2.4.2 Filtered Tailings Disposal Site: Prior to initiation of reclamation of the filtered tailings disposal site, MCRI shall submit to ADNR final facility closure plans, for review and approval, that are developed to minimize surface run-on water, infiltration into the tailings, and that demonstrate the geotechnical stability of the facility. The final facility closure plans shall include consideration of site water quality and tailings geochemical monitoring data and shall specify final slopes, cover design, growth medium replacement depths, and surface flow control and diversion ditches. Plans should also describe the source of growth medium and any other materials needed for facility cover construction.

Section 2.7.2 Mystery Ventilation Raise: Overburden excavation in preparation of forms for pouring the concrete shaft seal shall be to competent bedrock as evidenced by excavator refusal, unless otherwise approved by ADNR.

Section 2.7.4 Crystal Ventilation Raise: Overburden excavation in preparation of forms for pouring the concrete shaft seal shall be to competent bedrock as evidenced by excavator refusal, unless otherwise approved by ADNR. Buried glycol lines shall be “blown clear” with compressed air, unless otherwise approved by ADNR.

Section 2.8.1.1 Multi-Use Complex (Camp); Section 2.8.3.2 Maintenance Shop; Section 2.8.3.3 Mill Complex; and, Section 2.8.3.4 Generator Set Enclosure: Any buried glycol lines shall be “blown clear” with compressed air, unless otherwise approved by ADNR.

Section 3.2.19 Fuel Depot: Any buried fuel lines shall be “blown clear” with compressed air prior to cutting and/or capping below grade, unless otherwise approved by ADNR.

### **Nixon Fork Mine Monitoring Plan – (November 2011)**

Section 3.3.3 Development Rock – Solids; Table 3-7 Development Rock Geochemical Testing – Solids: The frequency of analysis for both the Acid Base Accounting (ABA) and Long-Term Leaching Potential (MWMP) should be changed to “Once per month for four (4) months, then quarterly thereafter”.

# STANDARD STIPULATIONS

## Reclamation Stipulations.

- a. Growth medium and overburden, not promptly redistributed to an area being reclaimed, shall be separated and stockpiled for future use. This material shall be protected from erosion and contamination by acidic or toxic materials and shall not be buried by development rock or surface construction activities.
- b. The area to be reclaimed shall be recontoured or reshaped to blend with surrounding topography using approved development rock or overburden, and then be stabilized to a condition that shall retain sufficient moisture to allow for natural revegetation.
- c. Stockpiled growth medium, overburden fines or muck and brush or other organic material shall be spread over the recontoured areas to promote natural plant growth, except over surfaces likely to be exposed to annual flooding.
- d. Exploration trenches shall be backfilled and the surface stabilized to prevent erosion. Brush piles, stumps, growth medium, and other organics shall be spread on the backfilled surface to inhibit erosion and promote natural revegetation. Reclaimed exploration trenches shall have water bars installed as needed for erosion control.
- e. Shallow auger holes (limited to depth of overburden) shall be backfilled with drill cuttings or other locally available material in such a manner that closes the hole to minimize the risk to humans and wildlife.
- f. All surface drill hole casings shall be removed or cut off at, or below, ground level.
- g. All surface drill holes shall be plugged by the end of the exploration season during which they are drilled, unless otherwise specifically approved by the Division of Mining, Land & Water.
- h. All surface drill holes shall be plugged with bentonite holeplug, a benseal mud, or equivalent slurry, for a minimum of 10 feet within the top 20 feet of the drill hole in competent material. The remainder of the hole will be backfilled to the surface with drill cuttings. If water is encountered in any drill hole, a minimum of 7 feet of bentonite holeplug, a benseal mud, or equivalent slurry shall be placed immediately above the static water level in the drill hole. Complete filling of the drill holes, from bottom to top, with a bentonite holeplug, benseal mud, or equivalent slurry is considered to be the preferred method of hole closure.
- i. If artesian conditions are encountered in surface drill holes, the operator shall contact the Division of Mining, Land & Water (Steve McGroarty – (907) 451-

2795) or the Department of Environmental Conservation (Tim Pilon – (907) 451-2136) to advise the agencies of proposed hole plugging methodology and receive approval for the hole plugging plans.

- j. Upon completion of drilling activity, drill pads shall be reclaimed as necessary to encourage natural revegetation of the sites and protect them from erosion.
- k. Roads and surface disturbance shall be held to a minimum. Exploration roads, drills pads and trenches shall be constructed in such a manner that minimizes the burial of vegetation and growth medium beneath overburden or broken rock. The use of a track excavator for construction of these facilities on slopes may allow for better segregation of materials during construction and subsequent reclamation. Exploration roads shall have water bars installed for erosion control and at the end of the project shall be reclaimed by backfilling, recontouring, and spreading of organic rich overburden to promote stabilization and natural revegetation.

**Inspection and Entry.** Mystery Creek Resources, Inc. shall permit authorized representatives of ADNR to enter the area and facilities covered under this Reclamation Plan Approval at all reasonable times without notice for the purpose of inspecting the area and activities covered under this plan approval. Inspectors shall observe Mystery Creek Resources, Inc. safety and security procedures.

Upon ADNR's written request, Mystery Creek Resources, Inc. shall promptly make available to ADNR for inspection and copying any and all records, documents, or other information required: 1) to be kept or maintained by law, regulation, ordinance, permit or this Reclamation Plan Approval; 2) to determine if site environmental controls are functioning as designed; 3) to evaluate reclamation and closure cost estimates; or 4) as reasonably required by ADNR to determine Mystery Creek Resources, Inc. is in compliance with local, state and federal laws governing the operations authorized under this Reclamation Plan Approval.

In any response to ADNR's written request, MCRI may assert that any and all records, documents, or other information is subject to the attorney-client privileges recognized under Alaska law or should be maintained as confidential business information in accordance with State law.

**Violations.** If the permittee fails to comply with AS 27.19, 11 AAC 97, or to comply with the provisions of the Reclamation Plan Approval, and the failure continues after service of written notice and an opportunity to be heard, the director will, in his or her discretion, pursue actions under AS 27.19, 11 AAC 97, and other applicable state law.

**Adverse Impact.** MCRI shall take all practicable means to minimize any adverse impacts to the receiving waters or lands resulting from noncompliance with any limitation specified in this Reclamation Plan Approval, including any additional monitoring needed to determine the nature and impact of the noncomplying activity.

**Permittee Responsibility for Actions of Contractors.** MCRI is responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project, and shall ensure that workers are familiar with the requirements of this authorization.

**Assignment.** This plan approval may be transferred or assigned with prior written approval from ADNR. ADNR will only disapprove a transfer with good cause and will evaluate whether the proposed assignee: (1) is qualified to hold interests in state mining rights under AS 38.05.190 and to acquire all other permits and authorizations necessary to conduct operations under the plan; or (2) is on notice of default or subject to an enforcement action by any state agency on any lease, reclamation bond, or other permit within the State. Any assignee must commit in writing to be bound by this plan approval to the same extent as Mystery Creek Resources, Inc., and must provide to ADNR all proofs of insurance, bonds, or undertakings required by this plan approval; this includes the requirements to complete the reclamation and closure of the site per the terms of the Reclamation Plan Approval, unless otherwise approved by ADNR. The new miner is liable for the full costs of reclamation to the standards of AS 27.19, 11 AAC.97, and the approved reclamation plan, regardless of the amount of the reclamation bond. Transfer of this plan approval may, at ADNR's discretion, require bond review and update.

**Other Authorizations.** The issuance of this authorization does not alleviate the necessity of Mystery Creek Resources, Inc. to obtain and comply with authorizations required by other agencies including, but not limited to, Alaska Department of Environmental Conservation, Alaska Department of Natural Resources – Division of Mining, Land and Water – Land and Water Sections, and Alaska Department of Fish & Game.

**Valid Existing Rights.** This authorization is subject to all valid existing rights in and to the land under this authorization. The State of Alaska makes no representations or warranties whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.

**Change of Address.** Any change of address must be submitted in writing to the Authorized Officer.

**Modifications.** Any request for modification of the Nixon Fork Mine Reclamation Plan and any affected permits or authorizations must be made by written application to ADNR and may require the updating of related supporting documents. Request for modification must be made no later than 30 days before the planned effective date of the modification. Modification to the Nixon Fork Mine Reclamation Plan may, at the discretion of ADNR, require a review and update of the financial assurance provided to ensure reclamation.

**Application for Renewal.** Application for renewal of this Reclamation Plan Approval must be made no later than 30 days before the expiration date of this approval. Unless otherwise approved by ADNR, the periodic five-year renewal of the Nixon Fork Mine Plan of Operations & Reclamation Plan will require the submission of the following updated supporting documents: the Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume I of II (November 2011); Nixon Fork Mine Plan of Operations & Reclamation Plan, Version 2, Volume II of II (November 2011); EXCEL Reclamation Spreadsheets revisions 2011 final.xlsx; and the Nixon Fork Mine Monitoring Plan (November 2011).

**Statutes and Regulations.** This plan approval is subject to all applicable state and federal statutes, including state, federal, and any local statutes and ordinances in effect on the effective date of this plan approval, new statutes, regulations, and ordinances enacted or promulgated after said effective date, and changes to existing statutes and regulations made after the effective date, to the extent constitutionally permissible.

**Severability.** If any clause or provision herein contained shall be adjudicated to be invalid, it shall not affect the validity or effect of any other clause or provision of this plan approval, nor constitute any cause of action in favor of either Mystery Creek Resources, Inc. or ADNR as against the other.

**Save Harmless.** The recipient of this plan approval (permittee) shall indemnify, save harmless, and defend the Department, its agents and its employees from any and all claims, actions or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or MCRI's performance under this Reclamation Plan Approval. However, this provision has no effect, if, and only if, the sole proximate cause of the injury is the Department's negligence.

**The commencement of permitted activities will be considered an acceptance by Mystery Creek Resources, Inc. of these stipulations.**

Approved: \_\_\_\_\_  
Joseph Wehrman,  
Department of Natural Resources

\_\_\_\_\_  
Date

## **Appeal Right and Procedure**

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 days of the date of issuance and may be mailed or delivered to Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). This decision takes effect immediately. If no appeal is filed by the appeal deadline, this decision becomes a final administrative order and decision of the department on the 31<sup>st</sup> day after the date of issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

Figure 3-3 Central Operations Area Detail

