

An Overview

The Process for Large Mine Permitting in Alaska

State of Alaska
Department of Natural Resources
Office of Project Management and Permitting
July, 2014

Key Concepts

- 1) Permitting process doesn't guarantee a "Yes"
- 2) Mining 101 – rock chemistry drives water quality and mine design
- 3) Many permits from many agencies are required
- 4) Financial assurance (\$) is required
- 5) We have experienced, dedicated regulators
- 6) Interagency monitoring & inspection continue through operation and closure

Large Mining Projects in Alaska



The Permitting Process!

Presentation Outline

- Description of the Permitting Process
- Mining 101 – basics of mining
- Description of Major Mine Permits
- Description of Permitting Agencies

Mineral Rights on State Land

- State land use plans determine allowable land uses, and if land is open or closed to staking (legislative approval needed for more than 640 acres). If there is no land use plan, default is usually open to staking.
- Most state land is open to mining
- Rights established for most minerals by discovery and appropriation (staking claims) under Alaska Constitution, Article VIII, section 11)
- State and Federal (BLM and most Forest Service) Land – established through staking claims (hard rock minerals)
- ANCSA and Private Land – open with agreements with landowner

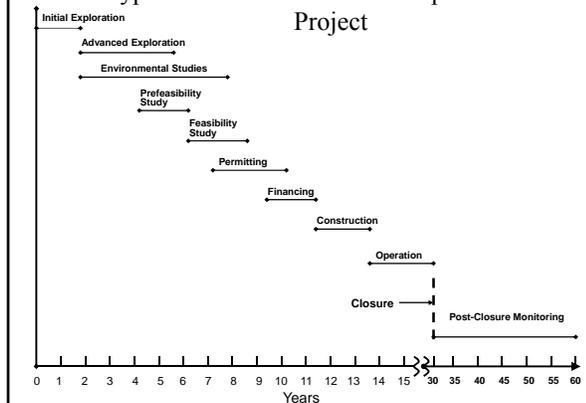
Major Steps in Mineral Development Process

- Prospecting - Geological data and map reviews, non-invasive exploration
- Staking - Establish Mineral Rights
- Exploration (includes drilling, geophysics, bulk sampling)
- Detailed Resource Delineation and Economic Feasibility
- Development Plan and permitting process (focus of this presentation)
- Mine Development (Construction)
- Mine Operation
- Shutdown (Closure) and Reclamation
- Long-term monitoring

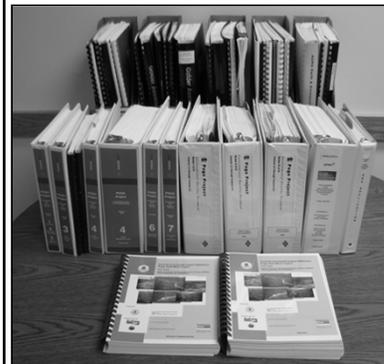
And many agencies

- Department of Natural Resources
- Department of Environmental Conservation
- Department of Fish and Game
- Department of Transportation & Public Facilities
- Department of Commerce, Community and Economic Development
- Department of Law
- US Environmental Protection Agency
- US Army Corps of Engineers
- US Fish and Wildlife Service
- National Marine Fisheries Service
- Bureau of Land Management
- U. S. Forest Service
- National Park Service

Typical Time Frame for a Completed Mine Project



The permit application package is comprehensive



Example:
Pogo Gold Mine
Permitting Documents
and Environmental
Impact Statement

No Single Permit to Mine: there are many permits & authorizations

- | STATE | FEDERAL |
|------------------------------------------------------------|--------------------------------------------------------------------|
| ■ Plan of Operations Approval (DNR) | ■ US EPA Air Quality Permit review |
| ■ Reclamation and Bonding (DNR) | ■ US EPA Safe Drinking Water Act (UIC Permit) |
| ■ Waste Management Permits and Bonding (ADEC) | ■ US ACOE Section 404 Dredge and Fill Permit |
| ■ Water Discharge Permit (APDES) | ■ US ACOE Section 10 Rivers and Harbors Act |
| ■ Certification of ACOE Permits (ADEC) | ■ US ACOE Section 106 Historical and Cultural Resources Protection |
| ■ Sewage Treatment System Approval (ADEC) | ■ NMFS Threatened and Endangered Species Act Consultation |
| ■ Air Quality Permits (ADEC) | ■ NMFS Marine Mammal Protection Act |
| ■ Fish Habitat and Fishway Permits (ADFG) | ■ NMFS Essential Fish Habitat |
| ■ Water Rights (DNR) | ■ NMFS Fish and Wildlife Coordination Act |
| ■ Right of Way/Access (DNR/DOT) | ■ USFWS Threatened and Endangered Species Act Consultation |
| ■ Tidelands Leases (DNR) | ■ USEFWS Bald Eagle Protection Act Clearance |
| ■ Dam Safety Certification (DNR) | ■ USFWS Migratory Bird Protection |
| ■ Cultural Resource Protection (DNR) | ■ USFWS Fish and Wildlife Coordination Act |
| ■ Monitoring Plan (Surface/Groundwater/Wildlife) (DNR/DEC) | |

(These are only some of the authorizations required)

National Environmental Policy Act (NEPA) Process

What is NEPA?

- National Environmental Policy Act
- Major federal actions trigger NEPA (EPA, Corps, BLM, USFS)
- Requires an Environmental Assessment (EA)
- Could require an Environmental Impact Statement (EIS)
- Timeline for NEPA is usually longest part of mine permitting process

Record of Decision

- A federal agency's permitting decision is based on the information presented in the EIS. Their decision is formalized when they publish their Record of Decision (ROD) in the federal register.
- The ROD is not a permit. Permit issuance follows the ROD and may incorporate certain language from the ROD as permit stipulations.

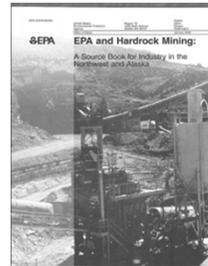
An EIS is

- A disclosure document prepared so agencies making decisions on a project are fully informed.

An EIS is NOT

- A decision document

Good Source for NEPA Information



NEPA Process Steps

- **Application** (i.e. for a CWA Section 404 permit, or USFS Plan of Operations Approval)
- **Scoping** (identify significant issues, scope of EIS)
- **Draft EIS Review**
- **Comments**
- **Final EIS**
- **Record of Decision (ROD)**

Permitting Example: Pogo Mine



Underground Gold Mine
near Delta Junction



Pogo Mine Permitting Chronology

- Agency Discussions and Baseline Studies Initiated in 1997
- EIS Initiated in August 2000
- Public input on Scoping 2000/2001
- Public Review of Draft EIS and Public Meetings, Spring 2003
- Final EIS Completed in October 2003
- State Permits Issued in December 2003

Pogo Public Participation

- Pre-Application meetings and outreach (community groups, Native groups, NGOs)
- Environmental Impact Statement Process
 - Scoping (meetings, public notice)
 - Draft EIS (meetings, public notice)
 - Final EIS (public notice)
- Tribal Consultation with 12 Tribes (Government to Government)
- Public comments accepted on all State authorizations
- Open Communication (website, meetings, newsletters, etc.)

Baseline Studies

- Surface Water Quality & Quantity
- Groundwater Quality & Quantity
- Subsistence
- Aquatic Life
- Wildlife
- Wetlands
- Socioeconomics
- Cultural Resources
- Meteorology
- Traditional Ecological Knowledge (TEK)
- Visual Resources
- Noise
- Air Quality

Do we ever say “No” ?

ANSWER: We say NO many times

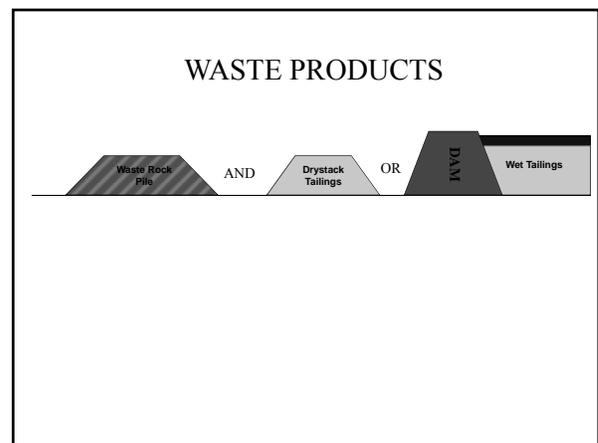
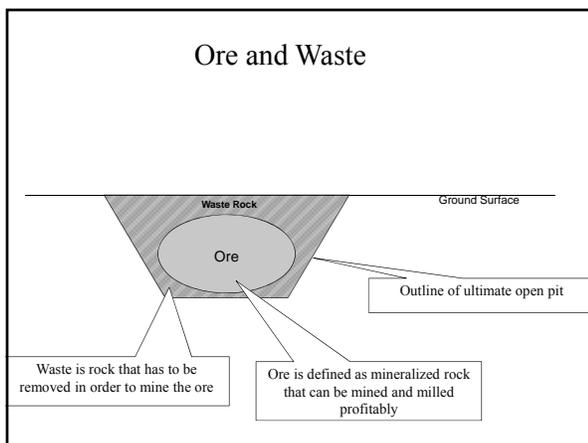
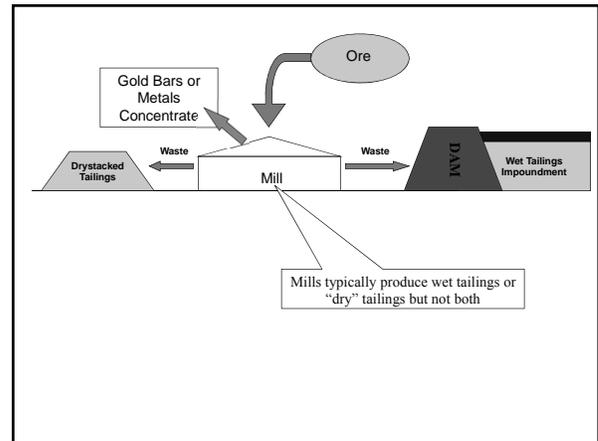
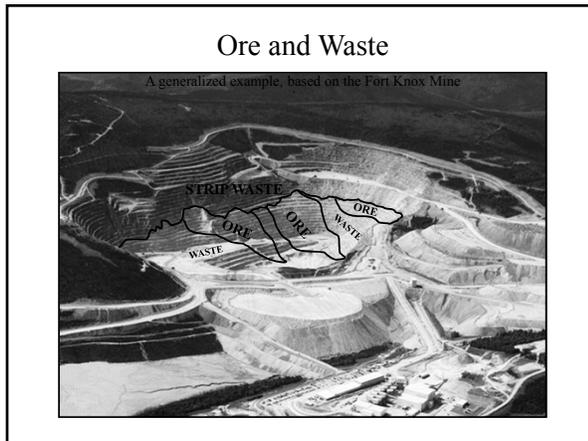
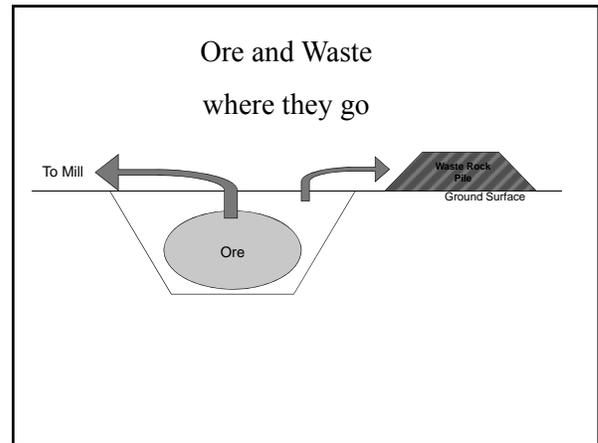
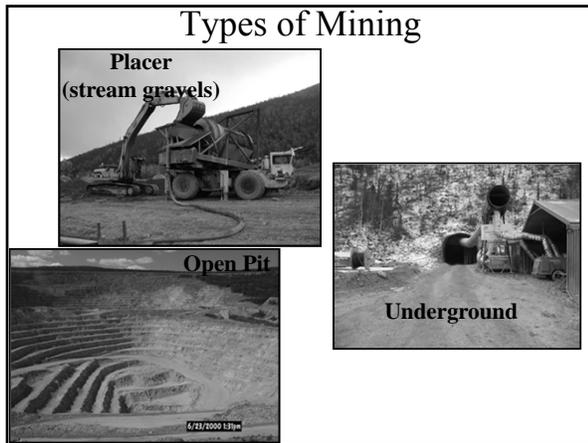
- There are numerous permits, each requiring YES/NO decisions
- A NO typically results in design changes to the project, and resubmittal of supporting documents
- The final approved project rarely looks like what was initially proposed – agencies require numerous changes to get to YES decision and permit approvals
- Sometimes applicants abandon a project before they get rejected
- Frequently project owners abandon project before they submit development permits – economics or technical challenges make project unfeasible or marginally feasible. Very few exploration projects ever become mine.

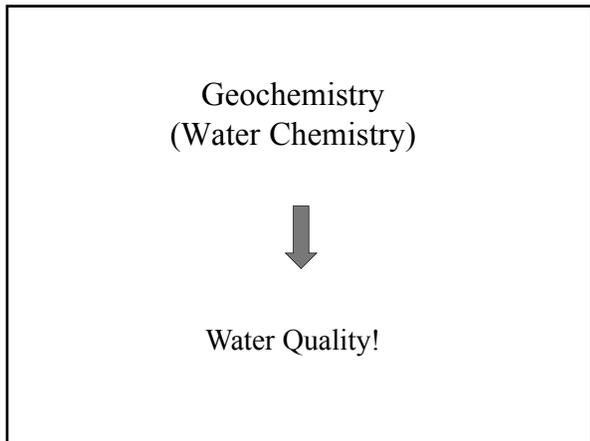
Coordinated State/Federal Process

- Draft State Permits may be included in Draft EIS for Public Review
- Public involvements (meetings, notices, etc.) are synchronized - not “streamlined”
- Public Comment Opportunities on State permits are preserved

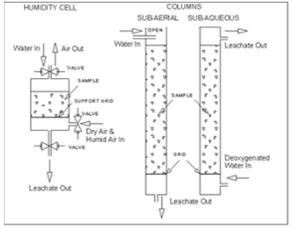
Mining 101

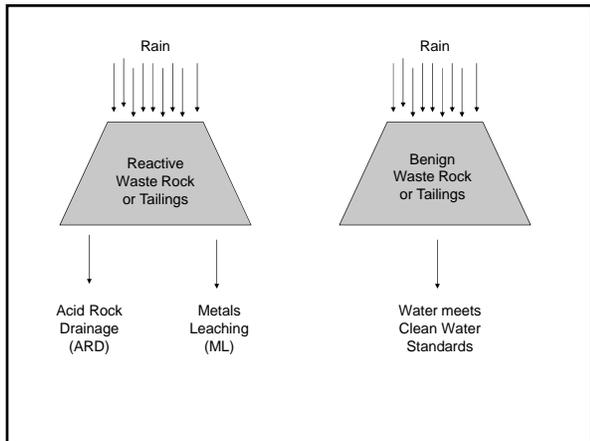
(a brief overview of mining practices and terminology)



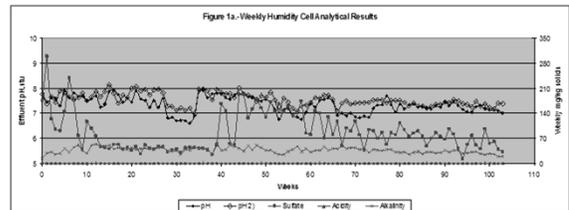


Column Tests or Humidity Cells Measure Long Term Chemical Trends in Waste Rock

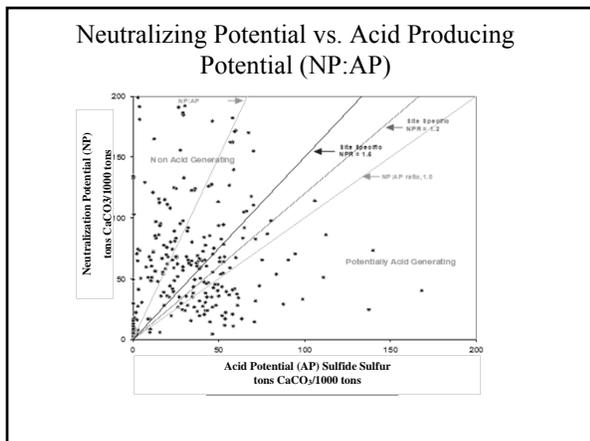


Humidity Cell Test Results



This test lasted for 103 weeks before being terminated

All of this geochemical information is used to predict the likelihood of developing acid rock drainage or metals leaching at the proposed mine.

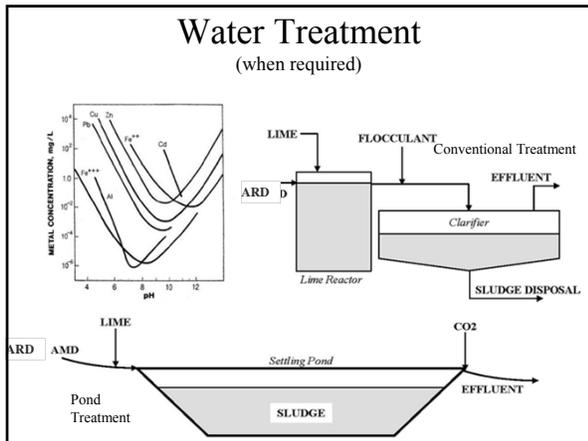


Understanding the geochemistry is essential to designing the mine (including waste storage, closure options)

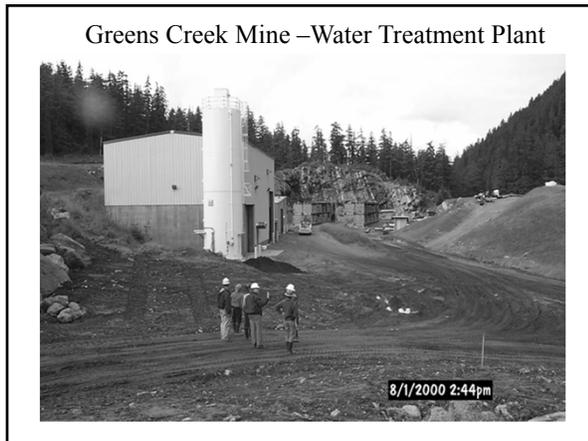


Example: Red Dog drainage from waste rock piles must be captured and treated prior to discharge

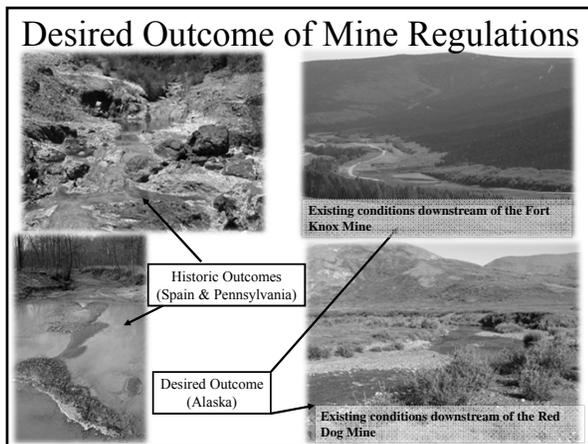




The Permits



- ### State of Alaska Approvals (not a complete list)
- **Waste Disposal Permits and Bonding** - (ADEC)
 - **Fish Habitat Permits** (DNR/OHMP)
 - Certification of ACOE permits - (ADEC)
 - Sewage Treatment System Approval - (ADEC)
 - **Air Quality Permits** - (ADEC)
 - Water Rights - (DNR)
 - **Monitoring Plan Approval** - (DNR/ADEC/ADF&G)
 - Right of Way/Access - (DNR/DOT)
 - **Reclamation Plan Approval** - (ADNR)
 - Cultural Resource Protection - (DNR)
 - **Dam Safety Certification** - (DNR)
 - **Plan of Operations Approval** - (DNR)
 - **Surface Coal Mining Control and Reclamation Permit** (DNR)



- ### Overview of ADEC Integrated Waste Management Permit
- Integrated Waste Management Permit
 - 18 AAC 60 – Solid Waste Management
 - 18 AAC 70 – Water Quality Standards
 - 18 AAC 72 – Wastewater Disposal
 - Typical Wastes Managed
 - Tailings
 - Waste Rock
 - Potential Contaminants Controlled
 - Acid Rock Drainage
 - Metals Leaching
 - Process Chemicals
 - Primary Focus of Protection
 - Surface Water
 - Groundwater

Integrated Waste Management Permit

- DEC Solid Waste Program
 - Tailings and waste rock disposal, plus garbage, sewage sludge disposal
- Wastewater Discharge Program
 - Wastewater from disposal and processing operations

Other ADEC Permits

- CWA Section 404 Permit Certifications.
- Storm Water Discharge Certifications
- Air Quality Permits
 - mine construction
 - mine operation
- Other permits & approvals
 - drinking water system, domestic wastewater system, food service permits, fuel storage plan

Integrated Waste Management Permit

- Typically supported by many of the following
 - Mine Plan of Operations
 - Monitoring Plan
 - Environmental Baseline Data
 - Reclamation & Closure Plan
 - Financial Assurance (bonding)
 - Wastewater Plan
 - Storm Water Pollution Prevention Plan (SWPPP)
 - Waste Characterization and Management Plan
 - Design and Construction Documents
 - Hydrology, Geochemistry Analysis, Mass Load Modeling, etc.

Alaska Pollution Discharge Elimination System Program (APDES)

- ADEC assumed full authority (from EPA) to administer the (APDES) wastewater and discharge permitting and compliance program for Alaska in 2012.
- Mines that have a need to discharge water to the surface environment typically require an APDES discharge permit
- APDES permitted water discharges have to meet stringent water quality standards

A Solid Waste Disposal Permit is required when:

- The waste material poses a threat to public health, safety, or welfare or to the environment;
- The waste material is being managed in a manner that causes a nuisance;
- The tailings from hard rock or placer have been amalgamated or chemically treated, or is not otherwise exempt from the regulations;
- There is an environmental problem associated with the management of the waste or materials
 - Waste rock or tailings that may cause acid rock drainage (ARD) or metals leaching are examples of mining wastes that would require a permit. Typically these wastes would need to be disposed at a facility that meets the requirements of an industrial waste facility.

Exemptions:

- Mining waste that is regulated by the Federal Surface Mining Control Act of 1977 and by the Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21)
- Storage of small quantities of waste
- Other exemptions that normally don't apply to large mine permitting

APDES Permitted Discharge at Red Dog Mine



Mixing Zones

- Mixing Zones are defined in 18 AAC 70.990(38) as an area in a water body surrounding, or downstream of, a discharge where the effluent plume is diluted by the receiving water within which specified water quality criteria may be exceeded.

Typical Water Monitoring Required at Large Mines

- Facilities with zero discharge to surface water:
 - Groundwater and surface water monitoring to ensure that facility is operating as no-discharge (chemical and physical)
 - Process water monitoring
 - Tailings solids monitoring
 - Waste rock monitoring
 - Biological monitoring
 - Example: Ft. Knox Mine
- Facilities that discharge to surface water :
 - All of the above monitoring
 - Upstream and downstream water monitoring
 - Examples: Red Dog Mine and Pogo Mine

Mixing Zones

- Defined in Alaska Regulations 18 AAC 70.990(38).
- Are part of most permitted discharges to surface water.
- Required to be as "small as Practicable" 70.240(k)
- Can apply to both domestic and industrial discharges.
- Size is designated by the state (DEC)

Engineered cover being placed over waste rock at the Greens Creek Mine



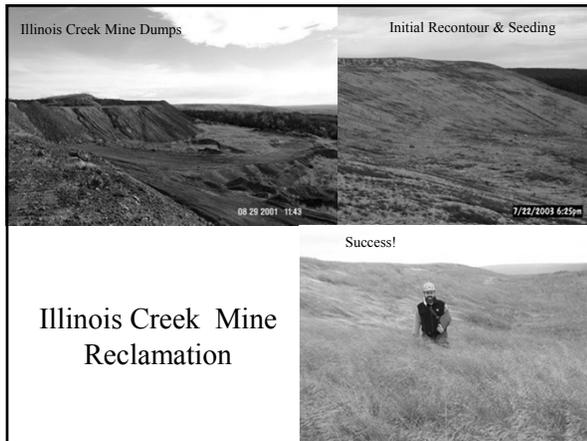
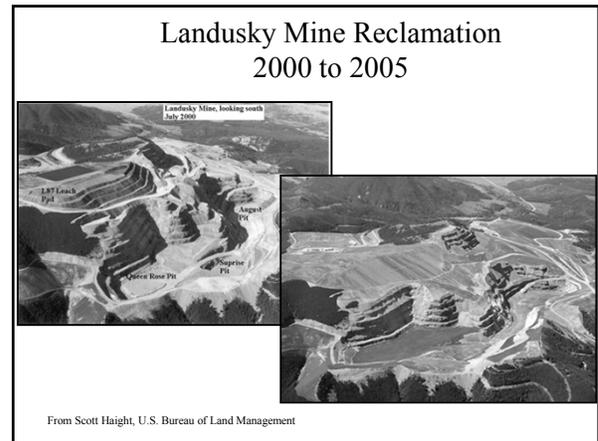
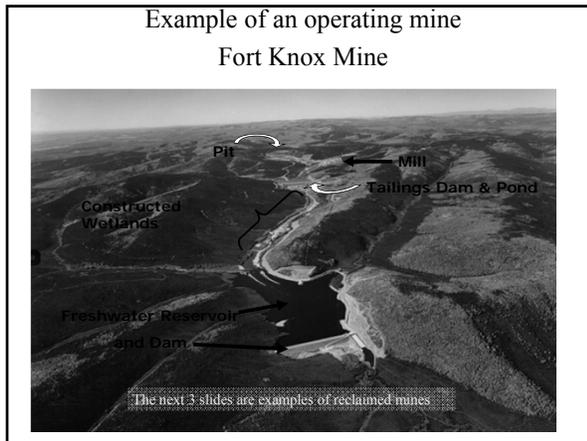
Discharge vs. Zero Discharge Mines

- Facilities that discharge to surface water
 - Designed to discharge to the environment
 - Incorporates treatment prior to discharge
 - Direct hydraulic connection to surface water
 - Mixing zone in receiving water may be necessary
 - State APDES permit typically required
 - Examples: Red Dog Mine, Pogo Mine, Kensington Mine, Greens Creek Mine
- Facilities with zero discharge to surface water
 - Designed to contain or use all water
 - No discharge to environment
 - No direct hydraulic connection to surface water
 - Example: Fort Knox Mine

Reclamation Plan Approval Issued by ADNR

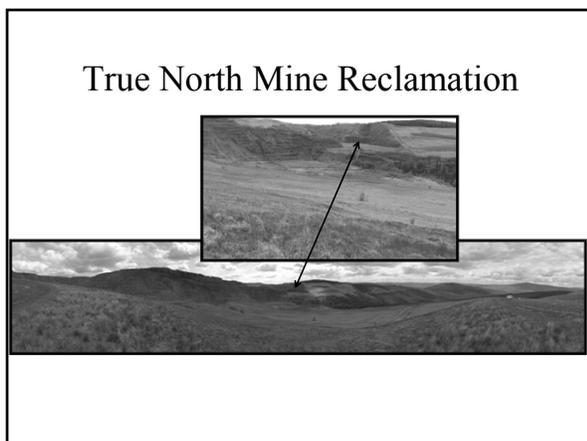
Division of Mining, Land and Water - Mining Section

- Minesite must be returned to a stable condition, compatible with the post-mining land use (AS 27.19.02)
- Financial Assurance must ensure State can perform the reclamation if company cannot.



Financial Assurance

- Financial Assurances (FA) are required from each mine operator so that reclamation and closure activities can be performed if the operator is unable to do so.
- FA may be in the form of a Bond, Letter of Credit, Cash, Collateral. Most are Letters of Credit
- Trust Funds can be used for long-term obligations under AS 37.14.800
- Requirement applies equally to US and non-US parent corporations



Financial Assurance

- FA amounts vary, mostly due to long-term obligations (water treatment, monitoring)
- FA amount is reviewed every 5 years through Environmental Audit as part of permit renewal process
- FA amount also reviewed anytime agencies feel it is warranted by a change in the scope/scale of mining operation

Other DNR Authorizations

- Millsite Lease — Division Of Mining, Land and Water
- Plan of Operations Approval — Division Of Mining, Land and Water
- Material Sales — Division Of Mining, Land and Water
- Rights-of-Way (access, powerlines) — Division Of Mining, Land and Water
- Leases (off-site facilities, docks) — Division Of Mining, Land and Water
- Cultural Clearances — State Historic Preservation Office
- Water Rights — Division Of Mining, Land and Water

Environmental Audits

- Environmental Audits on 5 year schedule tied to reissuance of permits
- All environmental systems audited
- Audits evaluate agencies as well as operations
- Audits by 3rd party experts
- Financial Assurances audited and recalculated based on Audit results

Alaska Department of Fish & Game Habitat Division Approvals

- AS 16.14.840: Fishway Act
For activities within or across a stream used by fish that could represent an impediment to the efficient passage of fish
- AS 16.14.870: Anadromous Fish Act
All activities within or across a specified anadromous waterbody and all instream activities affecting a specified anadromous waterbody require approval from the ADF&G



The Agencies

Environmental Monitoring

- Mines are required to perform routine environmental monitoring to assure their protection mechanisms are performing
- Monitoring is specified in a number of Monitoring Plans approved by ADNDR, ADEC or ADF&G
- Typically air, water, fish and waste streams are monitored
- Monitoring begins prior to mine construction and continues through operational and closure periods
- Monitoring typically continues for 30 years following closure and reclamation

State Agencies

Large Mine Permitting Team (LMPT)

- Department of Natural Resources
(Lead State agency for coordination)
- Department of Environmental Conservation
- Department of Fish and Game
- Department of Law
- Department of Commerce, Community and Economic Development
- Department of Transportation & Public Facilities
- Department of Health & Social Services

Large Mine Permitting Team (LMPT)

DNR Coordinates the permitting of large mine projects in the state in accordance with AS27.05.010(b):

The department is the lead agency for all matters relating to the exploration, development, and management of mining, and, in its capacity as lead agency, shall coordinate all regulatory matters concerning mineral resource exploration, development, mining, and associated activities. Before a state agency takes action that may directly or indirectly affect the exploration, development, or management of mineral resources, the agency shall consult with and draw upon the mining expertise of the department.

State Agencies

- Department of Natural Resources
 - Division of Mining, Land and Water
 - Mining Section
 - Land Section
 - Water Section
 - Water Use authorizations
 - Dam Safety Construction Unit
 - Office of Project Management and Permitting

Large Mine Permitting Team

- Coordinates review of applications and numerous State permit requirements
- Reviews, analyzes, and evaluates complex technical documents for adequacy and soundness
- Benefits from multi-disciplinary expertise of team members (geologists, engineers, hydrologists, biologists, environmental scientists)

State Agencies

- Department of Environmental Conservation
 - Division of Water
 - Division of Air Quality
 - Division of Environmental Health

Large Mine Permitting Team

- If the Team does not have the expertise, we can hire additional experts.
- At operating mines the team members conduct mine inspections and evaluates permit updates during operations.
- The Team is involved from pre-permitting to post-closure.
- State costs are billed back to the applicant/operator

State Agencies

- Department of Fish and Game
 - Habitat Division
 - Division of Wildlife Conservation
 - Division of Subsistence
 - Sport Fish Division
 - Division of Commercial Fisheries

Federal Agencies

- US Army Corps of Engineers
- US Fish and Wildlife Service
- National Marine Fisheries Service
- Bureau of Land Management
- U. S. Forest Service
- National Park Service



Corps Regulatory Authorities

- Section 404 Clean Water Act
 - Regulates discharge of fill in waters of U.S.:
 - Corps permit required before discharge
 - fill includes the redeposit of wetland soil
 - applies on private, public, and Native lands
- Waters of U.S.:
- navigable waters and their tributaries
- surface waters (lakes, sloughs, mudflats, etc.)
- adjacent wetlands

Major Federal Regulatory Requirements

- US ACOE Section 404 Dredge and Fill Permit
- US ACOE Section 106 Historical and Cultural Resources Protection
- NMFS Threatened and Endangered Species Act Consultation
- NMFS Essential Fish Habitat
- USFWS Threatened and Endangered Species Act Consultation
- USFWS Bald Eagle Protection Act Clearance
- USFWS Migratory Bird Protection



Corps Regulatory Authorities

- Section 10 Rivers and Harbors Act of 1899
 - Work in, under, or over navigable waters
 - Structures and activities that affect course, condition, location, or navigable capacity
 - Includes tidal waters and territorial seas
 - Navigable Waters List (subject to Section 10) on website: [Navigable Waters](http://www.poa.usace.army.mil/Portals/34/docs/regulatory/NavWat.pdf) (<http://www.poa.usace.army.mil/Portals/34/docs/regulatory/NavWat.pdf>)



U.S. Army Corps of Engineers (Corps) Involvement with Large Mines



Corp Regulatory Authorities

- Section 103 Marine, Protection, Research and Sanctuaries Act (1972)
 - Disposal of dredged material in Ocean waters outside of territorial seas



Definition of Fill

- Material placed in waters of the U.S. with the effect of:
 - Replacing any portion of a water with dry land
 - Changing the bottom elevation of any portion of a water



Corps Permit Process

- Receive complete application
- Issue Public Notice
- Consider:
 - All public comments
 - Alternatives
 - Determine the LEDPA
 - Mitigation
- Make decision to issue or deny



Scope of Analysis

- Corps may broaden scope beyond waters of the U.S.:
 - Extent of Corps jurisdiction
 - Configuration of facilities/uplands affects location of regulated activity
 - Cumulative Federal control (e.g., land, S, permits)



Corps Permit Process with EIS

- Go through NEPA Process:
 - Scoping
 - Draft EIS (DEIS)
 - Final EIS (FEIS)
- Issue Public Notice on FEIS
- Consider:
 - All public comments
 - Determine the LEDPA
 - Mitigation
- Make decision to issue or deny



Corps Permit Evaluation

- Public Interest Review
 - Balance benefits against detriments to public issues unless "contrary to the public interest"
- NEPA
 - EA/FONSI or EIS on all actions
- 404(b)(1) Guidelines
 - Analysis only on 404 permits
 - Least environmentally damaging practicable alternative (LEDPA)
 - All appropriate and practicable mitigation



Permit Process with EIS

- Corps does not issue draft permits
- Corps permits are not placed in DEIS or FEIS
- Corps must issue Record of Decision (ROD)
- Corps does not request comments on ROD



404(b)(1) Guidelines

- Different than NEPA process:
 - Corps must select LEDPA
 - LEDPA may not be same as preferred alternative in EIS
- NEPA provides information for 404(b)(1)
 - More information may be required



Alternatives

NEPA	404(b)(1)
Reasonable alternatives: <ul style="list-style-type: none"> • Feasible • Accomplish purpose and need • Not necessarily available 	Practicable alternatives: <ul style="list-style-type: none"> • Available & capable of being done • Considers overall project purpose • Considers cost, technology, & logistics



404(b)(1) Guidelines

- Discharge cannot be authorized if:
 - Violates applicable State water quality standards
 - Violates applicable toxic effluent standard or prohibition
 - Jeopardizes threatened or endangered species
 - Violates Marine Sanctuary designation
 - Contributes to significant degradation of waters of the U.S.

For More Corps Information

- Call: 1-800-478-2712 (statewide), 474-2166 (Fairbanks)
- Visit us: 2175 University Avenue, Suite 201E (Fairbanks)
- Visit our website: <http://www.poa.usace.army.mil/Missions/Regulatory.aspx>



404(b)(1) Guidelines

- Discharge cannot be authorized if:
 - Significant adverse effect on aquatic life or dependent wildlife
 - Significant adverse effect on aquatic ecosystem diversity, productivity, and stability
 - Significant adverse effect on recreational, aesthetic, and economic values
 - All appropriate and practicable steps to minimize potential adverse impacts

Presentation Summary

- DNR Synchronizes permitting to greatest extent possible including public participation and the technical review of permit applications, mine plans and supporting data.
- Design for Closure is encouraged
- Monitoring Plans are designed to ensure appropriate monitoring (air, water, reclamation success, etc) through life of mine and beyond
- Mines are required to provide adequate financial assurance
- Environmental Audits required every 5 years

Presentation Summary

- State and Federal agencies each have their own regulatory authorities in the large mine permitting process.
- Permit applications for Federal permits (i.e. 404 Fill Permit from the Corps) trigger NEPA which typically includes an EIS for large mines

How Can We Improve?

- More, different Public involvement?
- More information dissemination?
- More educational outreach?
- Other Ways?

The State of Alaska is always interested in hearing about how you think we can improve the large mine permitting process

CHECK US OUT AT:

<http://www.dnr.state.ak.us/opmp/>

or

<http://www.dnr.state.ak.us/mlw/mining/largemine.htm>

For questions or suggestions please contact:

Jack DiMarchi, Large Project Manager
Jack.DiMarchi@alaska.gov

(907) 451-2806