

**Response to Comments Document
Draft Waste Management Permit No. 2012DB0001 and
Draft Reclamation Plan Approval (A20125562)**

This document summarizes and addresses comments received on the Alaska Department of Environmental Conservation (DEC), draft Waste Management Permit (WMP) No. 2012DB0001 and the Alaska Department of Natural Resources (DNR), draft Reclamation Plan Approval (A20125562). The WMP regulates the containment and disposal of mine tailings, wastewater, and other mine-related wastes at the Nixon Fork Mine. Mystery Creek Resources, Inc. (MCRI) operates the Nixon Fork Mine located 32 miles northeast of McGrath, Alaska. The state received comments from one party, the Center for Science in Public Participation (CSP2).

Permit-specific comments on the DEC draft permit and DNR draft approval and the state's responses to those comments are contained in the table on the following pages.

DEC and DNR Responses to Comments on Draft WMP (2012DB0001) and Reclamation Plan Approval (A20525562) for Nixon Fork Mine

Comment #	Commenter	Comment	Comment Response
1	CSP2	The state should make available to the public via the internet, in a timely manner, all monitoring results (data) and summaries/reports submitted to the state and/or created by the state.	This is a general comment on public access to state records, and it is not specific to the draft documents under public review. Regarding state records that are open to public inspection, Alaska Statute (AS) 40.25.110 provides the public the right to inspect the state's public records. Further, administration regulations found in 2 Alaska Administrative Code (AAC) 96.300 through 2 AAC 96.360 specify details or rules for managing public records requests.
2	CSP2	The state should public notice monitoring reports.	Regarding permits like this DEC draft WMP, DEC's requirements for public notice are listed in AS 46.03.110 and 18 AAC 15.050. These requirements exclude consideration of monitoring reports. Likewise, DNR is not required to public notice monitoring reports.
3	CSP2	The state should make available to the public via the internet, in a timely manner, reports and plans relating to temporary closure, abandonment, or cessation of operations at the Nixon Fork Mine.	Without cause, it would be inconsistent to introduce this requirement to these state authorizations. The Nixon Fork Mine Reclamation and Closure Plan, as reviewed by the public, addresses temporary closure, abandonment and cessation of operations at the mine. Further, the draft documents on notice were consistent with other WMPs and Reclamation and Closure Plan Approvals because each requires more detailed information from the applicant when operations undergo prolonged interruption. Closure details are reviewed and approved by the state based on their technical merit and ability to comply with state authorizations, and public notice is not required. See the response to comment #1.
4	CSP2	The state should make available to the public via the internet, in a timely manner, all environmental audit plans and reports, so that the public has the opportunity to comment on audit plans before they are approved or implemented and then review the results of environmental audits after they are complete.	See the response to comment #1.

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5	CSP2	The draft Reclamation Plan Approval includes many specific stipulations that warrant the opportunity for public review and comment. Therefore, the state should make the results of all reports available to the public for evaluation and comment prior to agency approval or mine action.	DNR is not required to provide public review of the draft Reclamation Plan Approval. However as noted by DNR as well as the commenter, the draft Reclamation Plan Approval contains specifics, and DNR solicited public comments on the draft Reclamation Plan Approval through a volunteer public notice period. See the response to comment #1.
6	CSP2	Section 1.2.2.5 of the WMP states that monitoring well water must not exceed Alaska Water Quality Standards (WQS) <u>and</u> show a statistically significant increase in constituent concentration above the applicable WQS. It should say that groundwater must not exceed WQS <u>or</u> show a statistically significant constituent concentration.	Section 1.2.2.5 and other permit sections containing similar wording have been changed as recommended.
7	CSP2	Future plans for liner installation at the mine would ideally include compacted swelling clays, and a double synthetic liner with a leak detection system. Maximum protection would be provided by liners that underlay the entire facility.	As yet, no liner installation plans with or without swelling clays and multiple liners at the tailings storage facility have been produced. However, the WMP considers that may happen and devotes an entire section to site construction and operation, i.e. 1.4 <i>SITE CONSTRUCTION & OPERATION</i> . Sections relevant to this comment are found there. The following section indicates that plans must be submitted and approved before commencing alteration to waste disposal areas. Under section 1.4.6, it states, "The permittee shall submit plans to the department, at least 60 days before construction of the modification, and receive department approval of any changes that will significantly modify the quality or quantity of a discharge, significantly modify the operation of a waste treatment component, or significantly modify the disposal facilities."
8	CSP2	On page 37 of Volume I of II, it proposes using a linear low density polyethylene liner that is 40-mil thick for the tailings storage facility (TSF).	Page 37 of Volume I of II has been changed to read "at least 60-mil." Additionally, according to WMP sections 1.2.2.6, 1.2.2.6.1, and 1.2.2.6.2, the TSF must be refurbished to meet zero discharge status and the permittee receive written DEC approval before commissioning.

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9	CSP2	DNR should explain why specifying a liner system that has a number of features (partial liner coverage, thinner than usual liner material, as mentioned above) is necessary and adequate for this project.	See responses to comments #7 and #8.
10	CSP2	Soil is critical to reclamation success and therefore all available soils and subsoils should be salvaged to maximize the amount of available material for reclamation.	The Reclamation Plan Approval requires MCRI to provide a top soil plan before significant expansion of the Crystal rock dump and a growth medium replacement plan by March 31, 2016. Regarding segregating soils and subsoils, DNR has determined that these should be combined as growth medium where separation is not practicable due to thin layering.
11	CSP2	If natural re-vegetation is to be allowed, then a re-vegetation standard should be included to insure that the natural re-vegetation is taking place as suggested.	The commenter is referring to topsoil stockpiles that the state considers temporary in nature because they are ultimately used in the reclamation of other areas, and in some cases, concurrently with mining. Topsoil stockpiles generally re-vegetate on their own but are still subject to the reclamation standards provided in AS 27.19.100 and 11 AAC 97.200.
12	CSP2	In Section 1.2.3.5 the draft WMP states, "...wells must not exceed WQS <u>and</u> show a statistically significant increase..." It should say " <u>or</u> " instead of " <u>and</u> ."	Section 1.2.3.5 and other permit sections containing similar wording have been changed as recommended.
13	CSP2	Results of daily inspections of the land application area, as required in section 1.2.4.8 of the WMP, should be recorded.	In section 1.5.1.1 of the <i>Monitoring</i> section in the WMP it states, "Visual monitoring shall be documented."
14	CSP2	Any improper discharge like overland flows in the land application area prohibited in WMP section 1.2.4.8 should be reported immediately to DEC.	In section 1.6.1 of the <i>Reporting</i> section in the WMP, it states that noncompliance with requirements established in section 1.2 of the permit, including 1.2.4.8 as cited, must be reported, "no later than the end of the next State of Alaska working day after discovery..." DEC encourages and requires timely reporting.
15	CSP2	Section 1.2.4.8 prohibits, "...direct overland discharge to surface waters." The word "direct" should be removed because indirect discharges should also be prohibited.	Section 1.2.4.8 has been changed as recommended, and the word "direct" has been removed.

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16	CSP2	The Monitoring Plan and related requirements (such as the QAPP), like all regulatory plans and permits, should be subject to reasonable public notice and comment to ensure that the public has the opportunity to substantively participate in mine decision-making and evaluation.	See responses to comments # 1 and # 2.
17	CSP2	Reports the state receives or generates regarding the Nixon Fork Mine should be provided to the public via internet.	See response to comment # 1.
18	CSP2	In addition to physical access in Fairbanks, DEC should provide public access to all information received by or produced by the state regarding the Nixon Fork Mine.	The complete set of DEC files for Nixon Fork Mine is part electronic, part paper, and physically resides in the DEC Fairbanks office. See response to comment # 1.
19	CSP2	DNR should explain why mobilization/demobilization costs are not included in the reclamation surety estimate, and how DNR can insure that onsite equipment and facilities will be readily available in the event of a bankruptcy.	DNR does not assume that onsite equipment and facilities will be readily available in the event of a bankruptcy. The reclamation cost estimate is based on rented equipment, and the mobilization/demobilization costs for the rented equipment were calculated as direct costs. On page 3 of the 156 page bond estimate sent to the commenter, it summarized mobilization and demobilization costs equal to \$567,734.