

STATE OF ALASKA

SARAH PALIN, GOVERNOR

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OFFICE OF PROJECT MANAGEMENT/PERMITTING
ALASKA COASTAL MANAGEMENT PROGRAM

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June 22, 2007

Mr. Darwin Green
Niblack Mining Corporation
800 West Pender Street – Suite 615
Vancouver, B.C., Canada V6C 2V6

Dear Mr. Green:

Subject: Niblack Anchorage (Mine Exploration Phase)
State I.D. No. AK 0704-03J
Final Consistency Determination – Concurrence

The Office of Project Management and Permitting (OPMP) has completed coordinating the State's review of Niblack Mining Corporation's mine exploration phase and associated facilities proposed in Niblack Anchorage, on Prince of Wales Island, in southeast Alaska, for consistency with the Alaska Coastal Management Program (ACMP).

Based upon review by the Alaska Department of Natural Resources and the nearest affected Coastal District, OPMP has developed the enclosed consistency determination, in which the State concurs with certification that you submitted, that the project is consistent with the ACMP and affected coastal district's enforceable policies. This will be the final ACMP decision on this project, as proposed.

By copy of this letter, OPMP is informing the U.S. Army Corps of Engineers and State review participants of OPMP's finding. If you have any questions, please contact me at 907-465-4664 or email joe.donohue@alaska.gov.

Sincerely,



Joe Donohue
ACMP Project Specialist

Enclosure

cc: Kenwyn George – ADEC, Juneau
Ed Emswiler – ADEC, Juneau
Mel Langdon – ADEC, Anchorage
Brenda Krauss – ADEC, Juneau
Mark Fink – ADFG, Anchorage
Ruth Hamilton Heese – Law, Juneau
Alex Dugaqua – ADNR/DMLW, Juneau
Jim Anderson – ADNR/DMLW, Juneau
Brady Scott – ADNR/DMLW, Juneau
Steve McGroarty – ADNR/DMLW, Anchorage
Andrea Meyer – ADNR/DMLW, Anchorage
Rick Frederickson – ADNR/DMLW, Anchorage
John Dunker – ADNR/DMLW/Water, Juneau
Mark Minnillo – ADNR/OHMP, Craig
Rhonda Ren-Kingery – ADNR/OHMP, Craig
Ed Fogels – ADNR/OPMP, Anchorage
Tom Crafford – ADNR/OPMP, Anchorage
Claire Batac – ADNR/OPMP, Juneau
Bob Tsigonis – ADNR/OPMP, Fairbanks
Margie Goatley – ADNR/SHPO, Anchorage
Judy Bittner – ADNR/SHPO, Anchorage
Jim Gould – Coastal District, Thorne Bay
Leslie Real – Coastal District, Ketchikan
Paddy Nicol – Niblack Mining Corp., Vancouver, BC
Nicole Hayes – USACE, Regulatory, Anchorage
Katherine Miller – NMFS, Juneau
Chris Meade – USEPA, Juneau
Ian Newton – USCG, Juneau
Brian Levenson – USCG, Juneau

**ALASKA COASTAL MANAGEMENT PROGRAM
FINAL CONSISTENCY DETERMINATION
CONCURRENCE**

DATE ISSUED: June 22, 2007

PROJECT TITLE: Niblack Anchorage (Mine Exploration Phase)

STATE ID. NO.: AK 0704-03J

AFFECTED COASTAL RESOURCE DISTRICT: None

APPLICANT: Niblack Mining Corporation / Mr. Darwin Green

DESCRIPTION OF PROJECT SUBJECT TO ACMP REVIEW:

The site for the proposed mine exploration activities are located within sections 33 and 34, Range 88 E., Township 78 S., Copper River Meridian, at approximately 55.396° North, 132.862° West.

Background Information -

The "Niblack Project" is a copper-gold-silver prospect in an advanced exploration phase of development. The proposed underground exploration project is located off Moira Sound in Niblack Anchorage on southeastern Prince of Wales Island, approximately 30 air miles from the community of Ketchikan, Alaska.

The applicant, Niblack Mining Corporation (NMC), proposes to develop 6,000 feet of underground tunneling from a single adit entry. The main focus of the underground work is to provide access for exploration drilling to test deep zones of mineralization. The project is expected to last 2 years. It will require a marine access and camp barge facility on the adjacent state-owned tide and submerged lands. Other surface disturbances including an access road, portal, and waste rock storage and disposal areas will be confined to private property.

Total surface disturbance requiring post-closure reclamation is approximately 5.5 acres. The proposed underground excavation will generate about 60,900 cubic yards of waste rock, most of which is benign. Approximately 14,300 cubic yards is potentially acid-generating (PAG) material which will be placed in an engineered, lined 0.85-acre storage facility. At the end of the exploration period, all PAG waste rock will be picked up and transferred back underground and the adit will be sealed.

Adit development and exploration drilling will intercept groundwater, some of which will be used for the adit development drilling and exploration drilling. Diversion and use of this water

will be authorized under a Temporary Water Use Permit issued by ADNR. Control and treatment of intercepted groundwater will be regulated under a Wastewater Treatment and Disposal Authorization issued by ADEC.

Background Information -

In 1996 Abacus Minerals Corporation proposed an uplands crew camp site for support of their continued exploratory work at the mine site. This camp site was reviewed for consistency with the ACMP in 1996 under "AK 9604-06J". NMC has recently acquired the Niblack Anchorage assets of Abacus Minerals Corporation.

Additional Review Information -

At the end of the 30-day comment period, the State Historic Preservation Office (SHPO) had submitted consistency comments that found the proposed project inconsistent with ACMP statewide standard 11 AAC 112.320 "*Historic, Prehistoric, and Archaeological Resources*".

On May 25, 2007 the applicant accepted the proposed alternative measure and returned a signed "Project Amendment Form" that signified Niblack Mining Corporation has agreed to the SHPO alternative measure. By telephone conversation, Mr. Darwin Green of NMC stated that NMC has contracted with an archeologist to travel to the Niblack Mine site immediately to conduct a survey of areas of interest to both the USACE and the SHPO.

For the mine exploration phase to be found consistent with this standard, the SHPO recommended the following alternative measure:

- "The applicant must complete the Section 106 process between the State Historic Preservation Office and the U.S. Army COE."

Rationale: Under 36 CFR 800.2 of the National Historic Preservation Act, it is the statutory obligation of the lead Federal agency to fulfill the requirements of Section 106.

As a result of the Survey conducted by an archeologist contracted by NMC on the areas described by both the USACE and the SHPO, no culturally-significant resources were discovered. On June 22, 2007 the USACE provided SHPO with the information from the survey and SHPO contacted OPMP and verified that the project and associated activities described in the applications for the Niblack Mine's mine exploration phase is consistent with the standards and policies of the ACMP.

SCOPE OF PROJECT TO BE REVIEWED:

The scope of the project subject to the consistency review includes all Federal and selected State applications and supporting documents submitted to gain authorizations for this proposed underground exploratory phase of the development of the Niblack Mine and support facilities on the uplands and tide and submerged lands within Niblack Anchorage in Southeast Alaska.

The water quality authorizations from the Alaska Department of Environmental Conservation (ADEC) will not be within the scope of this coordinated ACMP consistency review, but rather will be the subject of a review process coordinated directly by ADEC.

AUTHORIZATIONS:

The project must be found consistent with the ACMP before the following Federal and State and authorizations may be issued:

U.S. Army Corps of Engineers (USACE) Section 10 and 404 Permit
No. POA-1982-0290-N (Modifications)

Alaska Department of Environmental Conservation (ADEC)
Certification of Reasonable Assurance (401)
Industrial Solid Waste Disposal Authorization
Wastewater Treatment and Disposal Authorization

Alaska Department of Natural Resources (ADNR)
Division of Mining, Land and Water (DMLW)
Mining Reclamation Plan - J072711
Tidelands Lease - ADL 107544
Temporary Water Use Permit - J2007-01

CONSISTENCY STATEMENT:

Based on an evaluation of your project by the Alaska Department of Natural Resources' Division of Mining, Land and Water (DMLW) and the Office of Habitat Management and Permitting (OHMP) and the nearest affected Coastal District, and the applicant's acceptance of recommended alternative measures to allow the project to achieve consistency, the State of Alaska concurs with the consistency certification submitted by Niblack Mining Corporation of Vancouver, BC, Canada and signed by Mr. Darwin Green.

State permits. State agencies shall issue permits within five days after OPMP issues the final consistency determination that concurs with the applicant's consistency certification, unless the resource agency considers additional time necessary to fulfill its statutory or regulatory authority.

Please note that, in addition to their consistency review, State agencies with permitting responsibilities will evaluate this proposed project according to their specific permitting authorities. Agencies will issue permits and authorizations only if they find the proposed project complies with their statutes and regulations in addition to being consistent with the coastal program. An agency permit of authorization may be denied even though the State concurs with the ACMP. Authorities outside the ACMP may result in additional permit/lease conditions. If a requirement set out in the project description (per 11 AAC 110.260(f)) is more or less restrictive than a similar requirement in a Resource agency authorization, the applicant shall comply with the more restrictive requirement.

This consistency determination is only for the project as described and amended. If, after issuance of a final consistency determination, the applicant proposes any changes to the approved project, including its intended use, prior to or during its siting, construction, or operation, the applicant must contact this office immediately to determine if further review and approval of the modifications to the project is necessary. Changes may require amendments to the State authorizations listed in this determination, or may require additional authorizations.

This final consistency determination represents a consensus reached between you as the project applicant and the reviewing agencies listed above; regarding the conditions necessary to ensure the proposed project is consistent with the ACMP. We are informing the federal agency responsible for approving a federal authorization for your project that your original proposal has not been modified subject to the conditions in this consistency determination.

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

ADVISORIES:

A consistency determination does not obligate the Department of Natural Resources to issue authorization pursuant to AS 38, nor does it supersede statutory obligations thereunder. The applicant may not proceed with any site specific land use activity on the subject State lands until so authorized by the Division of Mining, Land and Water. Authorities outside 11 AAC 112 may result in additional permit conditions not contained in the consistency decision.

This consistency determination may include reference to specific laws and regulations, but this in no way precludes an applicant's responsibility to comply with all other applicable State and federal laws and regulations.

This consistency determination is only for the project as described and for the agreed upon alternative measures. If, after issuance of a final consistency determination, the applicant proposes any changes to the approved project, including its intended use, prior to or during its siting, construction, or operation, the applicant must contact this office immediately to determine if further review and approval of the modifications to the project are necessary. Changes may require amendments to the State authorizations listed in this determination, or may require additional authorizations.

If the proposed activities reveal cultural or paleontological resources, the applicant is to stop any work that would disturb such resources and immediately contact the State Historic Preservation Office (907-269-8720) and the U.S. Army Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

FINAL CONSISTENCY DETERMINATION PREPARED BY:

Joe Donohue – ACMP Project Specialist
Department of Natural Resources
Alaska Coastal Management Program
PO Box 111030
Juneau, Alaska 99811-1030
(907) 465-4664



Joe Donohue

ACMP CONSISTENCY EVALUATION
Niblack Anchorage (Mine Exploration Phase) – AK 0704-03J

Pursuant to the following evaluation, the project as proposed is consistent with applicable ACMP statewide and affected coastal resource district enforceable policies (copies of the policies are available on the ACMP web site at <http://www.alaskacoast.state.ak.us>).

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| STATEWIDE STANDARDS |
| 11 AAC 112.200. Coastal Development |
| Evaluation: This barge landing component of the mine exploration project is recognized as a water-dependent or water-related use. This project, as proposed and described, meets the intent of this standard. |
| 11 AAC 112.210. Natural Hazard Areas |
| Evaluation: There were no district or state-designated natural hazard areas at this site. This project, as proposed and described, meets the intent of this standard. |
| 11 AAC 112.220. Coastal Access |
| Evaluation: This project, as proposed and described, does not restrict public access to coastal waters. As proposed the barge landing component of the project will enhance coastal access in this immediate area. Therefore the project, as proposed and described, meets the intent of this standard. |
| 11 AAC 112.230. Energy Facilities |
| Evaluation: This standard does not apply to the project as proposed. |
| 11 AAC 112.240. Utility Routes and Facilities |
| Evaluation: This standard does not apply to the project as proposed. |
| 11 AAC 112.250. Timber Harvest and Processing |
| Evaluation: This standard does not apply to the project as proposed. |
| 11 AAC 112.260. Sand and Gravel Extraction |
| Evaluation: This standard does not apply to the project as proposed. |
| 11 AAC 112.270. Subsistence |
| Evaluation: There were no subsistence areas designated within the proposed project area. This project, as proposed and described, meets the intent of this standard. |
| 11 AAC 112.280. Transportation Routes and Facilities |
| Evaluation: This project, as proposed and described, meets the intent of this standard. |
| 11 AAC 112.300. Habitats |
| Under 11 AAC 112.300, the following habitats in the coastal area of this mine exploration activity subject to the ACMP include (1) offshore areas and (4) tidflats..... Evaluation: OHMP provided the following comments to OPMP on March 22, 2007: "Habitats in the project area that are subject to the ACMP include offshore areas and tidflats. The management of these habitats must be conducted as follows: |

- offshore areas must be managed to avoid, minimize, or mitigate significant adverse impacts to competing uses such as commercial, recreational, or subsistence fishing, to the extent that those uses are determined to be in competition with the proposed use;
- tideflats must be managed to avoid, minimize, or mitigate significant adverse impacts to adequate water flow and natural drainage patterns

Camp Creek (ADF&G stream 102-30-10750) is located approximately 800 feet north of the proposed ramp/barge location and has been specified pursuant to AS 41.14.870(a) as being important for the spawning, rearing and migration of pink and coho salmon. Out-migrating salmon fry and smolt from this stream for migration, feeding, and predator avoidance from April through May use the nearshore environment of this productive estuary while they are adjusting to marine conditions. In-water activities such as pile driving and placement of fill below the high tide line can be physically damaging or can represent a significant disturbance to juvenile fish during this time period.

Pursuant to 11 AAC 112.300(1), OHMP finds the project as proposed consistent with the ACMP.

In order to minimize potential negative impacts to out-migrating salmon fry using the nearshore environment, OHMP recommends the following:

1. Pile driving should not occur from April 1 through June 15.
2. Piles should be driven using a vibratory hammer to the extent practical. An impact hammer will be used only for proofing the piles.
3. Treated wood used to construct the float should be treated with preservatives approved for use in aquatic or marine environments, and treated in accordance with best management practices developed by the Western Wood Preservers Institute. Approved wood preservatives include, but are not limited to: Chromated Copper Arsenic (CCA) Type C, Ammoniated Copper Zinc Arsenate (ACZA), Alkaline Copper Quat (ACQ), Copper Boron Azole (CBA) or Copper Azole (CA). Pentachlorophenol shall not be used for treating any wood associated with this project."

Based on these consistency comments this project as proposed and described, meets the intent of this standard.

11 AAC 112.310. Air, Land & Water Quality

Evaluation: The ADEC statutes and regulations with respect to air, land and water quality are incorporated into the ACMP. The issuance of an ADEC authorization constitutes consistency with the ACMP for the authorized activity and this standard. Consistency with this standard will be established when the ADEC issues or waives the required authorizations.

11 AAC 112.320. Historic, Prehistoric, and Archaeological Resources

Evaluation: The vicinity of the current Niblack Mine and associated properties have been designated as an area known to contain a site of cultural or historical significance [in this particular case **CRG-042**, Niblack, a mining camp, established in 1901].

For the project to achieve consistency with 11 AAC 112.320, the State Historic Preservation Officer had recommended that:

- "The applicant must complete the Section 106 process between the State Historic Preservation Office and the U.S. Army COE."

On May 25, 2007 the applicant returned a signed "Project Amendment Form" that signified Niblack Mining Corporation has agreed to complete the Section 106 process. By telephone conversation, Mr. Darwin Green has contracted with an archeologist to travel to the Niblack Mine site and conduct a survey

of areas of interest to both the USACE and the SHPO.

Niblack Mining Corporation provided the survey results to the USACE and the USACE provided the survey results to the SHPO. On June 22, 2007 OPMP was contacted by SHPO and informed that the SHPO was satisfied that the Section 106 process had been completed and the project was consistent with this standard.

With this information, OPMP has determined that the applicant is actively satisfying the requirements of the Section 106 process and therefore, the proposed project meets the intent of this ACMP standard.

AFFECTED COASTAL RESOURCE DISTRICT ENFORCEABLE POLICIES

Ketchikan Gateway Borough Coastal District:

OPMP received the following comments from the Ketchikan Coastal District Coordinator:

"Comments:

The Ketchikan Coastal District finds this project consistent with its enforceable policies and applicable Statewide Standards.

Objective A.1. *To promote sources of employment, economic growth, and community stability.*

A.1.a. *Government review and, where appropriate, support and funding, shall be given for the following activities and projects: support facilities necessary for mining development and operation.

Objective A.4. *To support the revival of Ketchikan's surface and sub-surface mining industry.*

A.4.a. *Land management programs shall identify accessible, high quality rock, sand, and gravel sites outside environmentally sensitive areas and allow for their excavation with minimal impact to the surrounding landscape. Where appropriate, a materials extraction plan shall be prepared for large intensive use sites.

The following objectives of the Ketchikan District Coastal Plan would pertain to tideland development associated with the camp barge facilities.

Objective B.3. *To allow tideland development, leasing, and use in an efficient and orderly manner.*

B.3.a. *The use of piling supported or floating structures shall be encouraged over those requiring solid tideland fills.

The Ketchikan District defers to resource managers to determine if projects are acceptable in their impacts on habitat, wildlife, and fisheries.

* Denotes enforceable policies from the Ketchikan District Plan.

Evaluation:

The project is not sited within the boundaries of any approved Southeast Coastal District. Ketchikan is the nearest approved coastal district.