

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND & WATER

SARAH PALIN, GOVERNOR

SOUTHEAST REGION OFFICE
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28 March 2007

Darwin Greene, VP Exploration
Niblack Mining Corp.
Suite 615-800 West Pender St.
Vancouver, BC
Canada, V6C 2V6

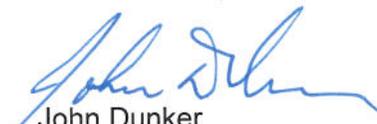
Re: Temporary Water Use Authorization – **TWUP # J2005-06 Amended**

Dear Darwin Mr. Greene:

Enclosed is Niblack's Temporary Water Use Authorization (permit) for the use of water from an unnamed stream, for domestic use in the floating barge camp at the Niblack project. This amended permit has been issued to authorize water use within the temporary tideland permit location. Please make note of the expiration date, the conditions in the permit, and the other provisions and advisories. This permit allows Niblack to develop a water resource and water use as indicated. However, it does not convey a water right or establish a priority date for any future application for water rights.

Please be advised that this agency's approval does not relieve you of the responsibility of securing other permits that may be needed, whether state, federal, or local. This case file is officially closed upon expiration of the permit on 21 June 2010 or upon cessation of authorization to occupy the temporary location pursuant to ADNR Temporary Tideland Permit LAS 25727, whichever is earlier. Please keep this office informed of any changes of ownership or changes of address. If changes to this project are proposed during its operation, please contact this office immediately to determine if further review is necessary.

If you have any questions about your permit or water use permitting in general, please contact me at 465-2533 or by email at John_Dunker@dnr.state.ak.us.


John Dunker
Water Resource Manager

Cc: Mark Minnillo, ADNR / OHMP / SE
Brady Scott, ADNR / DML&W / SERO
Bob Tsigonis, ADNR / DML&W / LMPT

Enclosure: **TWUP # J2005-06 Amended**

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."



**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
Water Resources Section**

TEMPORARY WATER USE AUTHORIZATION

**TWUP #J2005-06
Amended**

Pursuant to AS 46.15, as amended, and the rules and regulations promulgated thereunder, authorization is hereby granted to

Niblack Mining Corp.
Suite 615-800 West Pender St.
Vancouver, BC
Canada, V6C 2V6

to use up to 750 gallons of water per day, at a rate of up to 100 gpm, from the date the mine barge camp is authorized to occupy the ADNR Temporary Tideland Permit LAS 25727 area through 21 June 2010 or until the authorization under LAS 25727 ceases, whichever is earlier, during the seasons of 1 May through 30 November.

The water is to be taken from an unnamed stream (not a cataloged anadromous stream, but possibly tributary to stream #102-30-10750) on Prince of Wales Island flowing into Niblack Anchorage, within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 33, Township 78 South, Range 88 East, Copper River Meridian.

The water is to be used for domestic purposes in a floating barge mining camp located within the ADNR Temporary Tideland Permit LAS 25727 area, within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 78 South, Range 88 East, Copper River Meridian.

This Amended Temporary Water Use Authorization is issued only to change the place of use originally authorized in TWUP #J2005-06 to that location described above. No other changes are effected by this authorization, except for the additional pipeline length necessary to reach the new location.

Structures and equipment to be constructed and used: 2" gravity-flow pipeline (originally approximately 1300 feet long, to be extended as necessary to reach the new location) with screened intake; 1300 gallon holding/treatment tank.

Changes in the natural state of water are to be made only as stated herein and for the purposes indicated.

During the effective period of this authorization, the permittee shall comply with the following conditions:

CONDITIONS

1. Follow acceptable engineering standards in exercising the rights granted herein.
2. Comply with all applicable laws, and any rules and/or regulations issued thereunder.
3. Except for claims or losses arising from negligence of the State, defend and indemnify the State against and hold harmless from any and all claims, demands, suits, loss, liability and expense for injury to or death of persons and damages to or loss of property arising out of or connected with the exercise of the privileges covered by this authorization.
4. Notify the Alaska Division of Mining, Land, & Water upon change of address or transfer of any real property related hereto.
5. This authorization does not authorize the permittee to enter upon any lands until proper rights-of-way, easements, or permission documents from the appropriate land owner have been obtained.
6. Failure to respond to a request for additional information during the term of the authorization may result in the termination of this authorization.
7. The permittee shall allow an authorized representative of the ADNR Water Resources Section to inspect, at reasonable times, any facilities, equipment, practices, or operators regulated or required under this authorization.
8. The permittee 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. For any activity that significantly deviates from the approved project during its siting, construction, or operation, the permittee is required to contact the Water Resources Section and obtain approval before beginning the activity.
9. The permittee is responsible for obtaining and complying with other permits and approvals (federal, state, or local) that may be required.
10. The ADNR Water Resources Section may modify this authorization to include different limitations, expand monitoring requirements, evaluate impacts, or require restoration at the site.
11. Any false statements or representations, in any application, record, report, plan, or other document filed or required to be maintained under this authorization, may result in the termination of this authorization.
12. The permittee must follow all applicable statutes, regulations, and plan requirements of the Alaska Coastal Management Program (ACMP). This authorization is subject to ACMP Generally Consistent Determination 8 (GCD-8) and its relevant Standard Alternative Measures (attached). [This activity was previously reviewed under AK9604-06J issued 17 June 1996.]
13. Per 11 AAC 05.010 (A) (8) (m), an Annual Administrative Service Fee shall be assessed on this temporary water use.

TWUP #J2002-01

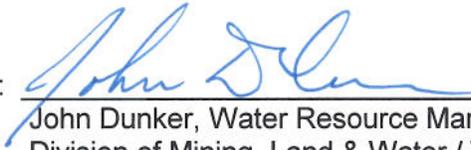
This Temporary Water Use Authorization is issued pursuant to 11 AAC 93.220. No water right or priority is established by a temporary water use authorization issued pursuant to 11 AAC 93.220. Water so used is subject to appropriation by others (11 AAC 93.210(b)).

The Division of Mining, Land & Water may suspend operations effected under this authorization whenever such suspension shall in its judgment be necessary to protect the public interest or that of a prior appropriator.

This Authorization shall expire on: 21 June 2010

Date Issued: 28 March 2007

APPROVED:



John Dunker, Water Resource Manager
Division of Mining, Land & Water / Water Resources Section / SE Region
Department of Natural Resources

ACMP
GENERALLY CONSISTENT DETERMINATION GCD-8
Standard Alternative Measures

- (1) Water discharged (including runoff) shall not be discharged at a rate resulting in sedimentation, erosion, or other disruptions to the bed or banks of the above waters, causing water quality degradation.
- (2) Water trucks will not be fueled or serviced within 100 feet of a water body. Gas fueled pumps will not be fueled or serviced within 100 feet of a water body unless the pumps are situated within a catch basin designed to contain any spills. Equipment shall not be stored or serviced within 100 feet of any of the subject water bodies.
- (3) Any water intake structure in fish bearing waters, including a screened enclosure, well-point, sump, or infiltration gallery, must be designed, operated, and maintained to prevent fish entrapment, entrainment, or injury, unless specifically exempted by DFG.
- (4) Each water intake directly accessible by fish shall be designed to prevent intake, impingement, or entrapment of fish. Preferred methods of water intake include well points, sumps, or infiltration galleries. As an alternative, the water intake structure must be enclosed and centered within a screened box with a maximum screen-mesh size of 0.04 inches. To reduce fish impingement at the screen/water interface, water velocity may not exceed 0.5 feet per second when the pump is operating (AS 16.05.870). Slower water velocities may be stipulated by ADF&G if more sensitive anadromous fish life stages (e.g. juvenile whitefish) are present at the water intake source during the period of pumping. DFG can properly determine the size of the screened box from the pump intake size and capacity to be used. Screens aligned parallel to the stream current will require the least maintenance and will be least likely to impinge fish.
- (5) Water bodies shall not be altered to facilitate water appropriation or disturbed in any way. If banks, shores, or beds are inadvertently disturbed, excavated, compacted, or filled by activities attributable to this project, they shall be immediately stabilized to prevent erosion and the resultant sedimentation of the water body that could occur both during and after operations. Any disturbed areas shall be re-contoured and revegetated.
- (6) Adequate flow must remain to support indigenous aquatic life and the watercourse must not be blocked to the passage of fishes. The water appropriation shall not adversely affect any anadromous fish stream.
- (7) Prior to withdrawing water from fish bearing streams, the OHMP and DNR may require current and expected flow data for the period of proposed water use. DNR may set a maximum rate of diversion and/or a minimum instream flow.
- (8) In-water activity will be limited to placement and removal of the intake structure only. No other in-water activities will occur.
- (9) There shall be no wheeled, tracked, excavating, or other machinery or equipment (with the exception of the non-motorized screened intake box) operated below the ordinary high water line.
- (10) Permittee must employ pumping operations in such a way as to prevent any petroleum products or hazardous substances contaminating surface or ground water. In case of accidental spills, absorbent pads will be readily available at the water collection point. The lessee or permittee shall immediately notify DEC by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water; any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the lessee or permittee shall report the discharge within 48 hours and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC 75.305 shall be met. The provisions of 18 AAC 75.310 (Scope and Duration of Initial Response Actions) and other reporting requirements of 18 AAC 75.300 - 18 AAC 75.396 also apply. The lessee or permittee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300. All fires and explosions must also be reported. The DNR 24 hour report number is (907) 451-2678; the fax number is (907) 451-2751. DNR or the appropriate land manager and DEC shall be supplied with all follow-up incident reports.
- (11) The suction hose at the water extraction site must be clean and free from contamination at all times to prevent introduction of contamination to the water bodies, and should be in water of a sufficient depth so that the stream sediments are not disturbed during the extraction process.
- (12) During the construction or operation phases of this project, any discharge to state waters made pursuant to this water use shall comply with Alaska Water Quality Standards.