



APMA J20245690
The Palmer Project, Alaska
Juneau Mining District
Memorandum of Decision

Applicant(s):

Constantine North, Inc.-Operator

Constantine Mining, LLC. – Mineral Property Owner

1/15/2025

**1. REQUESTED LAND USE AND PROPOSED ACTIVITY
DESCRIPTION:**

Executive Summary:

The applicants propose to conduct sonic and diamond core geotechnical drilling, hydrogeological monitoring, small engineering test sites (test pits or trenches) seismic refraction studies, environmental baseline investigations, and associated access construction on 63 state mining claims located within the Haines State Forest. Seismic refraction studies would utilize small charge, gellatin dynamite to generate refraction waves for geophone instrumentation and analysis. The purpose of drilling, monitoring, engineering test sites excavation, and seismic studies is for subsurface investigation to understand the regolith and hydrogeological conditions, which helps to determine feasibility and design considerations at two sites (Klehini and Plateau) for potential future mine infrastructure for the Palmer Project.

Proposed Surface Occupancy:

Proposed surface occupancy consists of access roads/trails, trenches, drill pads, a 1-acre laydown yard, and cleared brush for seismic refraction survey lines.

Fuel Storage:

Primary fuel storage for the project is located on federal lands, however a small 500-gallon fuel tank is proposed to be stored at the 1-acre Plateau site laydown yard.

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Acreege Disturbance and Reclamation Bonding:

Pursuant to AS 27.19.030, this operation is more than five acres and requires a reclamation plan approval. The applicants propose a total of 6 acres of disturbance on general State land in the total amount of 21 acres of bonded acreage for the entire project. The applicants have provided the appropriate bond pool deposits and payments for the total 21 acres of proposed disturbance, including the 15 acres of currently disturbed area.

Water, Fish, Wildlife, Wetlands and Cultural Surveying:

Water use and water quality, fish and habitat mitigation, wildlife mitigation, wetlands impact and cultural resources are managed and regulated by the following agencies:

- Alaska Department of Natural Resources, Division of Mining, Land & Water, Water Section (DMLW-Water)
- Alaska Department of Natural Resources, Office of History and Archeology (OHA)
- Alaska Department of Fish and Game, Habitat Division (ADFG)
- Alaska Department of Environmental Conservation (ADEC)
- U.S. Army Corps of Engineers, Alaska District (USACE)
- U.S. Fish and Wildlife Service (USFWS)

2. PROPOSED ACTION

The Division will authorize Constantine(s) proposed operations via a Plan of Operations Approval according to 11 AAC 86.150 and 11 AAC 86.800 for a term beginning on the date of issuance and ending on December 31, 2028, unless extended under 11 AAC 86.800(d).

3. ADMINISTRATIVE RECORD

The administrative record for the proposed action consists of the Constitution of the State of Alaska, the Alaska Land Act as amended, applicable statutes and regulations referenced herein, the Haines State Forest Management Plan, 2002 (HSFMP) and other classification references described herein, and the case file for the application serialized as APMA J20245690.

4. SCOPE OF DECISION

The scope of this decision is to determine if it is in the State's interest issue a Plan of Operation for proposed surface uses of Constantine's state mining claim. The scope of administrative review for this authorization is limited to (1) reasonably foreseeable, significant effects of the uses to be authorized; (2) applicable statutes and regulations; (3)

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facts pertaining to the land or resources; and (4) issues that are material to the determination that issuing the authorization is in the interest of the State of Alaska.

5. RELEVANT STATUTORY & REGULATORY AUTHORITIES

Relevant Statutory Authorities:

AS 38.05.020 Authority and Duties of the Commissioner

AS 38.05.035 Powers and Duties of the Director

AS 38.05.195 Mining Claims

AS 38.05.255 Surface Use of Land or Water

AS 27.19 Reclamation

AS 41.15.300 through .330 Haines State Forest Resource Management Area

Relevant Regulatory Authorities:

11 AAC 86.800 Mining Rights

11 AAC 96 Miscellaneous Land Use

11 AAC 87 Mining Reclamation

(Continued on page 3.)

6. PROPOSED PERMIT AREA LOCATION

Geographic Location:

Uplands near the Glacier Creek confluence with the Klehini River, Haines Alaska.

Legal Description:

C028S053E Sec. 26,28

C028S054E Sec. 29, 30

7. LAND STATUS INFORMATION

The requested activities lie within the State of Alaska mental health land selection MH 16. The subject lands received Patent #50-65-0019 to the State on July 20, 1964.

Interests within or near the sections listed above: These interests are identified in Alaska's Land Administration System and Alaska Mapper both available online at <http://dnr.alaska.gov/mlw/index.htm>

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Mineral Closing Order

None

Leasehold Location Order

None

Municipal Selection

None

Other Permits, Leases or Actions

Baby Brown Timber Sale (Division of Forestry) -NSE 1549

Baby Brown/Glacier Side Sale (Division of Forestry) - 1594

Land Agreements, Settlements, Conveyances, Reconveyances and Municipal Entitlements of land

None

Other Land Information

Description of activities above lie within the management provisions or may be affected by the Haines State Forest Management Plan, adopted in August 2002 for the following region:

Management Plan: Haines State Forest Management Plan

Unit Name: Klehini Unit

Description: 3 – E Jarvis / Glacier Creek

Classification: Forest Land

Prohibited Uses: Personal Use Cabins, Commercial Helicopter Landings
(Heli-skiing, Tours)

Management Intent:

Subunit 3e (Jarvis/Glacier Creeks) encompasses the forested state land west of Porcupine Creek. The subunit, containing approximately 4,400 acres of operable forest land, is classified Forest Land and will be managed primarily for commercial timber harvest. Mineral and material values include silver, lead, and limestone east of Jarvis Creek and gold on Glacier Creek. A barite deposit on federal land is near the headwaters of Glacier Creek. The bridge crossing Glacier Creek has failed, and the Division of Forestry will need to replace it to provide access to the area. Mining operations and minerals extraction will also be allowed. Habitat, recreation, and scenic values are present within this subunit.

8. ACCESS

Access from outside the claim block is via the Porcupine Creek Logging Road.

9. PERMITTING BACKGROUND/ HISTORY OF APPLICANT COMPLIANCE

Constantine Mining, LLC and Constantine North, Inc. have had no compliance issues with the Alaska Department of Natural Resources until May of 2023. Operations at the Palmer Project have been ongoing for over a decade under APMA 5690. During the comment period for previous APMA amendment J20195690#1, Division was advised by several commenters that clearing work for seismic lines was initiated at the Klehini Site prior to the issuance of a permit, with some portions of the lines in excess of 5' in width. This issue was resolved via a \$5,000 performance guarantee, and the pursuit of damages (punitive or compensatory damages") for the clearing activity was determined unwarranted. The Division considers the matter resolved and Constantine is in good standing.

10. AGENCY & PUBLIC NOTICE

Agency Notice

The Division provided the application for review and the opportunity to comment on the activities considered for authorization under this summary. The following entities were notified on April 10th, 2024, for comment on the application: The Alaska Department of Fish and Game (ADFG), Alaska Department of Environmental Conservation (ADEC), ADNR Water Resources Section (ADNR-Water), ADNR, Division of Forestry and Fire Protection (DOF), ADNR, Southeast Regional Land Office (SERO), ADNR State Historic Preservation Office (AK SHPO), U.S. Army Corps of Engineers (USACE), US Forest Service (USFS), US Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), the Haines Borough, and Agencies were given an opportunity to review the application materials and submit comments for a 14-day period from April 10th through April 24th, 2024.

Agency Review Comment and Issue Response

Agency Comments were received from the Alaska Department of Fish and Game, the DNR Division of Forestry, and the National Oceanic and Atmospheric Administration, Fisheries (NOAA). See Attachment B for agency comments and DMLW comment responses. It is of note that several public commenters made allegations that agencies had not been given a notice of the application and plan of operations, which is incorrect. The Division's response to the public comment document addresses and refutes those allegations in detail.

Public Notice

The Division issued a public notice of the application and supporting documents on April

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10, 2024. Notice was distributed using the State of Alaska Online Public Notice System¹. During the Public Notice Period, 158 individual public comment letters were received, totaling over 2100 pages of public comments. DMLW public comment responses are located in Appendix B of this document.

11.POTENTIAL ENVIRONMENTAL RISK

This decision considers the environmental factors directly related to the authorization for use of state lands, specifically whether the approval of the authorization is in the State's interest. The purpose of this consideration is to identify any associated mitigation measures or other requirements necessary to protect the public interest while informing the overall decision of whether or not to approve the authorization.

Fuel:

Constantine has indicated in the Plan of Operations Section 3.7 that the only fuel storage on the state mining claims subject to this decision is a 500-gallon diesel fuel tank at the one-acre laydown location at the Plateau Area to the west of Glacier Creek. The laydown yard storage tank is more than 100' from flowing waters as required by the Division. This 500-gallon tank is similar in size to those used for residential heating fuel in the Haines area, will be placed in a secondary containment duck pond liner and will also have associated earthen berms as an additional protection. The project has a Spill Prevention Control and Countermeasures Plan (SPCC), spill kits onsite, training for project personnel in spill prevention and response procedures, and inspection procedures.

Camp Reclamation, Remediation and Removal:

The camp is located on private land is outside the scope of this decision.

12.PERFORMANCE GUARANTY

Performance guarantees are means to assure performance and to provide ways to pay for corrective action if the permittee fails to comply with the requirements set forth in the permit document. They are also used to protect state land from damage and to make certain that improvements are removed and that the land is returned in a usable condition upon termination of the permit.

Upon review of the scope and nature of the proposed activities, in combination with the applicants' compliance history, the Division has made the determination to require a performance guarantee in the amount of **\$5,000 USD**. This is the same guarantee required by the Miscellaneous Land Use Permit² in which this Plan of Operations Approval is

¹ Attachment E of this Memorandum of Decision.

² APMA J20195690#1 MLUP issued August 7, 2023.

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replacing for project activities. For that permit, Constantine chose to provide a personal bond with the Division and provided the amount for the Division to maintain in a depository account held by the State of Alaska. If Constantine wishes to again utilize a personal bond and the previously remitted cash deposit, a new personal bond on a form provided by the Division will be required. If another form of security is proposed, that must be provided prior to the release and refund of the cash deposit. The Division reserves the right to evaluate the performance guaranty at any time during the life of the permit, and at least annually. If a performance guaranty is required and not timely provided, the authorization will be nullified without further consideration.

13. INSURANCE

Insurance is a means to protect the state from liabilities incurred through the use of state property, or from damage to state property as a result of accidental or catastrophic events. This type of protection is necessary in the event of an accident or negligence that was consequentially connected to activities conducted on state land, and/or if the state is named in a lawsuit as a result of an accident or negligence.

After consideration and consistent with the previously issued Land Use Permit in which this authorization replaces, the Division has determined not to require insurance based on the scope and nature of the proposed activities. The Division reserves the right to evaluate the insurance requirement at any time during the life of the Plan Approval, and at least annually. If insurance is required and not timely provided, the authorization will be nullified without further consideration.

14. DISCUSSION

See the Division's response to agency and Public Comments documents³ for a comprehensive discussion of the issues and concerns raised during the adjudicatory process.

15. DETERMINATION

The Division has determined it appropriate to issue a stipulated Plan of Operations Approval⁴ to conduct Hardrock Exploration (geotechnical investigations) and Reclamation activities on lands owned by the State of Alaska.

The applicant is advised to review authorization documents carefully as well as the regulations under AS 27.19 (Reclamation), AS 38.05 (Alaska Land Act), 11 AAC 86 (Mining Rights), 11 AAC 96 (Miscellaneous Land Use), and 11 AAC 97 (Reclamation).

A performance guarantee is required for this Plan of Operations Approval. The Plan of

⁴ Effective from the date of issuance until December 31, 2028, unless extended according to 11 AAC 86.800(d).

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Operations approval will not be executed and issued until acceptable security has been furnished.

Dave Charron

1/16/2025

Authorized Officer

Date

David Charron, Geologist 5

16. APPEAL

An eligible person affected by this decision may appeal to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any appeal must be received within twenty (20) calendar days after issuance of this decision under 11 AAC 02.040. An eligible person must first appeal a decision to the Commissioner before seeking relief in superior court. The Alaska Court System establishes its own rules for timely appealing final administrative orders and decisions of the department. Appeals may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918; or sent by electronic mail to dnr.appeals@alaska.gov. Appeals must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160 (a)-(b). A copy of 11 AAC 02 is available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

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17. MEMORANDUM OF DECISION ATTACHMENTS

Attachment A- Response to Agency Comments

Attachment B- Response to Public Comments

Attachment C- Airblast Attenuation Memo

Attachment D- Printout of the Scaled PPV (Peak Particle Velocity)⁵ calculations

A copy of Plan of Operations Approval APMA J20245690, which requires a performance guarantee to be furnished before it can be signed and go into effect.

⁵ Peak particle velocity (PPV) is a measure of the maximum speed at which particles vibrate in the ground after an explosion. It's a key indicator of the intensity of the blast and can be used to predict if any damage will be caused by an explosion and its potential effects to fish and aquatic life in nearby waterbodies.