



ALASKA MINERS ASSOCIATION, INC.

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May 6, 2013

Bruce Phelps, Section Chief
Alaska Department of Natural Resources
550 West 7th Avenue, Suite 1050
Anchorage, Alaska 99501-3579
Submitted via dnr.bbapamend@alaska.gov

Re: Proposed Bristol Bay Area Plan Amendments

Dear Mr. Phelps,

Thank you for the opportunity to comment on the proposed Bristol Bay Area Plan Amendments.

The Alaska Miners Association (AMA) is a non-profit membership organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,500 individual prospectors, geologists, engineers, vendors, suction dredge miners, small family mines, junior mining companies, and major mining companies. Our members look for and produce gold, silver, platinum, molybdenum, lead, zinc, copper, coal, limestone, sand and gravel, crushed stone, armor rock, and other materials.

In general: AMA supports the amendments.

In general, we support the six proposed amendments to the 2005 Bristol Bay Area Plan (with the possible exception noted below). We believe the 2005 Area Plan struck an appropriate balance between various and diverse stakeholder interests. It contains significant protection to fish and wildlife resources, but also adopts the multiple-use philosophy that is imbedded in the Alaska Constitution.

The proposed amendments increase protection for wildlife habitat. Specifically, as the amendment proposal correctly notes: the cumulative effect of the proposed amendments is that more land in the Bristol Bay region would be managed for wildlife habitat and public recreation than under either the 1984 or 2005 area plans. Overall, the plan amendments do not greatly change land management in the region.

Changes to the mineral designation.

The mineral designation in the 2005 plan includes the statement “includes surface uses in support of mineral exploration and development, including tailings deposition, waste rock disposal, mineral processing facilities, administrative facilities, and residential living quarters.” The amendment proposes to delete that language from the text.

Those opposed to mining in the Bristol Bay area have alleged that that mineral designation does not necessarily mean that the designation supports mine facilities and have argued that it is *illegal* to locate mine facilities in mineral closures. This argument is, of course, legally incorrect. A mineral closure closes an area to mineral staking only. While a mineral closure prevents a claimant from gaining a property right to the minerals in that area (i.e., a mining claim), it absolutely does not restrict the more detailed permitting process from locating facilities at the most appropriate location, which could be in a closed area. In some circumstances, such as mitigation reasons, closed locations may be appropriate places for mining or mine facilities. A permitting process that is done based on science determines what is best for the environment, wildlife, and human health. Mineral designations should not prevent permitting agencies from making the best decision on placement of facilities, or otherwise.

AMA has concerns that the proposed amendment to modify the mineral designation definition will give unintentional support to these anti-mining groups' erroneous arguments. Therefore, we believe that it is

crucial that in the public record that accompanies the plan — the response to comments or other documents, DNR must make it crystal clear to the general public that 1) mineral facilities may still be appropriate as determined by the mine permitting process; and 2) a mineral closure absolutely does not foreclose facilities or even mining within the closed area if the more detailed permitting process determines that it is appropriate. If the record makes this long-held interpretation clear, then AMA holds no objection to the change. If the record does not make this intent clear, then we strongly object to the change. The change, without the accompanying clarification, will provide support to a dangerous and new interpretation of law.

Changes significantly beyond DNR's proposed amendments are illegal without additional public process.

Changes to the 2005 plan that would go significantly beyond what was proposed in the public notice cannot be legally done without additional public process. It is an abuse of the process and illegal to advertise one change and then adopt something greatly beyond the scope of what was advertised. DNR cannot legally introduce completely new concepts and changes without another entire process. Therefore, proposals such as those made by certain anti-mining groups, such as to classify the entire area as wildlife habitat, cannot legally be adopted without additional public process.

The Lake and Peninsula Borough should receive its Municipal Entitlement.

The 1984 Bristol Bay Area Plan used a broad habitat classification for almost all of the area. The Area Plan was adopted before the Lake and Peninsula Borough was formed. While the Legislature granted the Borough an entitlement of 125,000 acres, the 1984 plan prevented the Borough from selecting its land. One of the main reasons that the plan was revised in 2005 was to allow the Borough to select its land. AMA understands that the Borough has a remaining entitlement of 40,000 acres. Any changes to the plan should not inhibit the Borough's ability to gain its promised entitlement.

No subsistence classification.

The information distributed with the proposed amendment makes clear that DNR does not intend to adopt a subsistence classification or designation, and AMA supports this decision.

In summary, AMA generally supports the amendments to the Bristol Bay Area Plan and a comprehensive management plan for the Bristol Bay region. Thank you for the opportunity to comment.

Sincerely,



Deantha Crockett
Executive Director