

Following are responses to the public comments that were submitted in email to the Department of Natural Resources' (DNR's) Division of Mining, Land and Water<sup>1</sup> concerning the submission of Application for Permits to Mine in Alaska ("APMA") # F20252961 (hereinafter the "application", "plan of operation" and, where relevant the "permit") requesting authorization to conduct mineral exploration drilling and trenching, and associated access construction on state mining claims held by Roger Burggraf and operations conducted by Felix Gold Operations Inc.

## COMMENT OVERVIEW

In rendering a decision on this application, the Department considered comments submitted during the comment period which ran from April 24, 2025 to May 8, 2025<sup>2</sup>. DNR received 127 public comments. Comments within the scope of the application review were considered, as well as relevant, competent, and scientifically sound information that the commenter cited in support of their comments.



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<sup>1</sup> "DNR" "ADNR", the "Department", the "Division", "DMLW" and "Mining Section," are used to indicate the Alaska Department of Natural Resources, Division of Mining, Land & Water.

<sup>2</sup> A comment response document is not required by statute or regulation but provides a useful summary of the relevant comments on the application that were submitted to DNR during the comment period and the Department's responses.

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## ISSUE TOPIC: OPINION COMMENTS AGAINST THE ISSUANCE OF THE PLAN OF OPERATIONS.

**Comment Summary:** Commenters voiced general opposition to the activities proposed in the submittal and encouraged denial of any permits.

**DMLW Response:** General support/opposition comments were noted.

The Division's review of this application was conducted by a team of subject matter experts with extensive experience in mining, environmental science, and natural resource management. Our analysis is based on objective criteria, established scientific principles, and relevant regulations. We approach each application with impartiality, focusing solely on the facts presented and the applicable legal and regulatory framework.

Our team's diverse expertise allows for a comprehensive evaluation of all aspects of the proposed activities, including potential environmental impacts, technical feasibility, and regulatory compliance. We strive to maintain the highest standards of professional integrity in our assessments, ensuring that our decisions are based on sound science and law, rather than personal or political considerations. The Division is committed to transparency in our decision-making process, which is evident in this response to comment document.

After working with Division staff to obtain pre-application technical assistance; Felix Gold Operations Inc. has submitted a comprehensive and well-prepared application that demonstrates a thorough understanding of the regulatory requirements and the complexities of the proposed activities. The application includes detailed plans, extensive data, and a clear outline of operational procedures, reflecting a commitment to responsible resource management.

The Division has completed a “hard look” and has issued a reasoned decision considering the material facts and issues presented. As noted in the Reclamation Bonding comment response below, Felix Gold Operations, Inc. is participating in the Statewide Reclamation Bonding Pool under AS 27.19.040(b) The reclamation bond pool are put in place to protect the state and public lands if the permittee is unable or unwilling to meet permit obligations and complete the required reclamation.

The Division values public input and remains committed to ongoing dialogue with all stakeholders throughout the permitting process and beyond.

## ISSUE TOPIC: OPINION COMMENTS IN FAVOR OF THE ISSUANCE OF THE PLAN OF OPERATIONS.

**Comment Summary:** Commenters generally agreed with the proposed activities and encouraged issuance of the exploration activities.

**DMLW Response:** General support/opposition comments were noted. The Division has decided to issue a Plan of Operations Approval with reasonable and appropriate stipulations to protect the state's interest. Issuance of this decision is consistent with the provisions of the Alaska Constitution, Article VII, the Alaska Lands Act (AS 38.05), and Subsurface Resources goals of the Eastern Tanana Area Plan for State Lands which includes providing opportunities through state land management for the exploration and development of mineral resources and the general plan goal of providing opportunities for jobs and income by managing state land and resources to support a vital, self-sustaining, diverse local economy.

## ISSUE TOPIC: MINING CLAIMS AND AREA PLANS

**Comment Summary:** Commenters stated on how area plans and mining claims in the area are no longer in the best interest of the project area. They claim the area plans are outdated and no longer reflect land use of the area.

**DMLW Response:** Comment Noted. While the comments are outside the scope of the decision, a brief overview of the process of how area plans are created and how revisions occur will be discussed along with how Mineral Closing Orders are created to prevent mining claims in areas of state land.

Area plans: The project area is covered by the Eastern Tanana Area Plan<sup>3</sup>. Area Plans go through a long, public process to set broad, long term land use planning. The requirements for creating the plans are governed by Alaska State Statute AS 38.04.065<sup>4</sup>. The Eastern Tanana Area Plan went through the entire public process and was approved and implemented in 2015. More information

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<sup>3</sup> A complete copy of the Area Plan can be found at <https://dnr.alaska.gov/mlw/planning/areaplans/etap/>

<sup>4</sup> Sec. 38.04.065. Land use planning and classification

regarding state land planning can be found at the following website:  
<https://dnr.alaska.gov/mlw/planning/>

Mineral Closing Orders: Mineral Closing orders are governed by Alaska Statute AS 38.05.300. However, it should be noted that in accordance with AS 38.05.300, any closure above 640 contiguous acres can only be closed to mineral entry by act of the State Legislature<sup>5</sup>. In addition, if any such order was put in place over the project area it does not go into effect while preexisting mineral rights remain from the time prior to the closing order designation by the legislature.

## ISSUE TOPIC: CONVEYANCE OF STATE LANDS TO PROPERTY OWNERS

**Comment Summary:** Commenters believed that the land in the area should be considered settlement only and not open to mining. The mechanism to do so would be for the state to sell the land to private property owners.

**DMLW Response:** Comment Noted. This comment is beyond the scope of this decision. Conveyance of surface rights requires no encumbrance of title to include, but not limited to, mining claims. To sell surface lands, the land would require reclassification under the Eastern Tanana Area Plan as settlement. Following the change in the area plan classification, legislative action is required to create a mineral closing order for areas larger than 640 acres. Additionally, the parcels would require sale through the state land auctions in accordance with AS 38.05.050<sup>6</sup>.

## ISSUE TOPIC: ROYALTIES TO THE STATE

**Comment Summary:** Commenters stated that no royalties would be received from the activities and should not be approved since no beneficiation to the state will be realized. It was further stated that the royalties received by the state are insufficient and outdated to be of any benefit to the state.

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<sup>5</sup> Sec. 38.05.300. Classification of land. (a) ... If the area involved contains more than 640 contiguous acres, state land, water, or land and water area may not, except by act of the state legislature... (2) be otherwise classified by the commissioner so that mining, mineral entry or location, mineral prospecting, or mineral leasing is precluded or is designated an incompatible use.

<sup>6</sup> Sec. 38.05.050. Disposal of land for private ownership.

**DMLW Response:** Comment Noted. This comment is beyond the scope of this decision. Under AS 38.05.212<sup>7</sup>, production royalties are assessed only when mineral resources are produced and result in a product generating net proceeds. Exploratory activities, including preliminary prospecting, surveys, or drilling undertaken to evaluate the potential of a deposit, do not produce a marketable commodity and therefore do not trigger royalty obligations. Since no product is being extracted or sold and no net profit is realized during these initial phases, royalty payments are not applicable to exploration work.

## ISSUE TOPIC: ADEQUACY OF PUBLIC NOTICE AND APPLICATION MATERIALS

**Comment Summary:** A substantial number of comments received by the Division remarked on the adequacy and constitutionality of a 14-day comment period. Many commenters indicated that a public meeting and a 30-day or a 90-day comment period was required. Many commenters even alleged that it was only a 7-day public notice period.

**DMLW Response:** Comment Noted. Comment Noted. Many Commenters are confusing federal agency NEPA/EIS<sup>8</sup> comment periods that typically range from 45-90 days (depending on the scope of the project) with the public notice requirements for Plan of Operations Approvals. Revocable permits and authorizations such as the issued Plan of Operations are not a disposal of a state interest and are exempt from formal public notice requirements by AS 38.05.945(e). Pursuant to Alaska Constitution Article VIII, Section 10, the Alaska Legislature enacted AS 38.05, including the provisions of AS 38.05.945.

However, the department does retain the discretion to issue an online notice posting and solicit comments. The Division determined that it was appropriate to post our standard exploration permit/plan of operations approval 14-day posting, which is used for comparable exploration projects elsewhere on state lands. This is the typical timeframe that land use authorizations such as Plan of Operations Approvals and Land Use Permits are public noticed by the Mining Section and that the Division's Regional Land Offices public notice for non-mining related land use permits. The public notice had a clear description of the proposed action and pertinent facts, information and links to submit comments, and the application before the agency for review and consideration.

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<sup>7</sup> Sec. 38.05.212. Production royalty.

<sup>8</sup> National Environmental Policy Act (NEPA) / Environmental Impact Statement (EIS)

While not required, the notice provided by the Division was constitutionally adequate<sup>9</sup>; as it was a reasonable and substantial opportunity for the public to participate in the adjudicatory process governing the issuance of the Plan of Operations Approval, receive numerous detailed substantive comments, and provide a response to comments document addressing public interests and concerns.

In addition, there is no legal requirement for public meetings or hearings in the adjudication of 11 AAC 86 Plan of Operations Approvals. Permits and other authorizations (such as Plan of Operations Approvals) that are revocable are also exempt from AS 38.05.945 public notice requirements and thus, are exempt from AS 38.05.946 public hearings<sup>10</sup>. DMLW has provided a detailed response to comments document to address concerns and questions raised during the 14-day public notice period.

With regards to allegations that the notice was active for only seven days, this is incorrect. The notice was posted on April 24, 2025, to the Online Public Notice website and comments were accepted until May 8, 2024.

## ISSUE TOPIC: LENGTH OF PLAN OF OPERATIONS APPROVAL

**Comment Summary:** Commenters stated that approval should be a single year and be required to submit a new application every year.

**DMLW Response:** Comment Noted. The applicant has applied for a Plan of Operations Approval, under 11 AAC 86.150 and 11 AAC 86.800. Under 11 AAC 86.800(d), the plan of operations may cover up to a ten-year period. In review of the proposed activities, the Division does not foresee any conflicts or potential issues that would warrant such a yearly piecemeal permitting approach. Furthermore, the Division views the limitation for the Plan of Operations Approval to one year as a direct conflict with the intent of the application to conduct ongoing advanced exploration in and around the known Grant Mine deposits. Requiring an applicant to resubmit an application is counterproductive, and the Division finds that it would be arbitrary and constitute a baseless delay.

During the terms of the permit, the applicant is required to submit reclamation summary reports annually and is subject to inspections to verify reclamation has been completed to the standards

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<sup>9</sup> Because Alaska Const. Article VII § 10 “Public Notice” does not specify the requirements and there are no specific requirements for revocable Plan of Operations Approvals, what constitutes constitutionally adequate centers on due process. In the due process context, notice has been found adequate when the party has had actual notice and the opportunity to present its arguments to DNR.

<sup>10</sup> Under AS 38.05.946



set forth in 11 AAC 97. Additionally, an annual work plan that describes the intended exploration and reclamation for the project location during that year's operations is required.

An amendment must be filed for approval if the operator wants to deviate significantly from the approved plan. Restricting the plan to an annual permitting regime is unnecessary, since the Plan of Operations is both facially and legally revocable for cause and at will. The Division also retains the right to modify the Terms of Approval during the duration of the plan.

## ISSUE TOPIC: PRODUCTION MINING AND BLASTING AT GRANT MINE

**Comment Summary:** Commenters stated that the department should not permit production mining, blasting, or exploration at the project area for it will lead to a large open pit gold mine.

**DMLW Response:** Comment Noted. The department does not engage in speculative permitting. The project being approved is for exploration work only, mining and blasting have not been proposed.

With regards to the assertion that blasting is going to be conducted as part of the project application, Box 21 of the application specifically addresses the use of explosives. The applicant indicated by crossing out the box that it was not applicable to the proposed activities. Based on the application materials, the department will also not be authorizing any use of explosives for the proposed activities.

## ISSUE TOPIC: PROPOSED SCOPE OF WORK

**Comment Summary:** Commenters stated that the scope of exploration work is beyond what is required to identify and map a resource.

**DMLW Response:** Comment Noted. The exploration activities, equipment, and methodology are consistent with general industry standards, are reasonable, and are necessary surface uses under AS 38.05.255/ 11 AAC 86.145(a). The Division does not see the activities proposed as excessive or outside the scope of a reasonable hardrock mineral exploration program.

## ISSUE TOPIC: ACCESS, INCREASED TRAFFIC, AND ROAD DEGRADATION

**Comment Summary:** Commenters noted an objection to the access to the project site, safety of increasing traffic along St. Patrick Road and the degradation of the road.

**DMLW Response:** Comment Noted. St. Patrick's Road is under the authority of the Alaska Department of Transportation and Public Facilities (DOT&PF) as part of the state highway system. Because it is managed by DOT&PF and not the Alaska Department of Natural Resources (DNR), the use, access, and general maintenance of the road fall outside the scope of DNR's permitting and regulatory authority. Accordingly, this decision does not address or impose stipulations regarding the use of St. Patrick's Road, as the road is not subject to regulation under mineral exploration permitting requirements administered by DNR.

Any vehicle traffic associated with this mineral exploration project, including transport of personnel, heavy equipment, and supplies, is subject to the same traffic laws, regulations, and restrictions applicable to the public on the state highway system. This includes compliance with load/weight limitations, posted speed limits, seasonal weight restrictions, and other DOT&PF requirements intended to ensure safety and protection of state transportation infrastructure. Responsibility to comply with these requirements rests with the operator and is independent from permits or authorizations issued by DNR for mineral exploration activities.

## ISSUE TOPIC: EFFECT ON PROPERTY VALUES

**Comment Summary:** Commenters commented how the proposed activities will lower the property and home values around the area.

**DMLW Response:** Comment Noted.

In issuing a mineral exploration Plan of Operations, the Division's review is strictly limited to the standards and factors established under statute, regulation, adopted area plans, and permitting policy. The location of this project is designated for mineral extraction as the primary use of state land in the Eastern Tanana Area Plan, which guides management of state lands in the region. Potential effects on adjacent property values or neighborhood character are not among the criteria

the Division may consider in this context. The permitting authority does not serve as a zoning or land valuation mechanism; therefore, speculative reductions in neighboring land values fall outside the scope of decision-making. Even if such considerations were relevant, property values are influenced by numerous external market factors that cannot be reliably quantified in relation to the temporary and exploratory nature of mineral exploration activities. Moreover, complex questions of fact and law surrounding property value impacts are beyond the Division's expertise and legal authority, thus making this Division an inappropriate venue for their resolution.

Although local zoning ordinances and the 2005 Fairbanks North Star Borough Regional Comprehensive Plan<sup>11</sup> do not provide direct, instructive guidance to the Division in its permitting process, they remain illuminated in discussions about property values and anticipated uses. The proposed mineral exploration project is located in an area zoned General Use-1 (GU-1) by the Fairbanks North Star Borough—this is the broadest zoning category, allowing the widest array of residential, commercial, and industrial activities with very few restrictions. Further, the 2005 Regional Comprehensive Plan designates the area as a High Mineral Potential Zone, signaling that mineral exploration and extraction are authorized and expected uses within this setting. For these reasons, the agency's analysis remains properly focused on measurable, regulatory standards rather than conjectural real estate impacts.

## ISSUE TOPIC: WATER WITHDRAWAL AND USE FROM HAPPY CREEK AND POTENTIAL ENVIRONMENTAL IMPACTS TO WILDLIFE

**Comment Summary:** Commenters had concerns regarding whether Happy Creek and the unnamed pond could sustain the continuous withdrawal of 20,000 gallons of water per day and its potential environmental impacts to wildlife.

**DMLW Response:** Comment Noted. The Happy Creek drainage is an ephemeral stream. At peak flow times during April and May, 20,000 gallons of water could be withdrawn. At other times of the year, there could be little to no flow. If the applicant needs more water than what is available, they will be required to amend their TWUA application to reflect this change. In addition, the associated TWUA F2025-042 was agency noticed on 4/25/2025. The Alaska Department of Fish and Game responded by determining that no fish habitat permit is required.

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<sup>11</sup> More information about the Fairbanks North Star Borough Comprehensive Plan can be found at: <https://www.co.fairbanks.ak.us/DocumentCenter/View/900/Regional-Comprehensive-Plan-PDF>

## ISSUE TOPIC: NOISE, LIGHT, AND AIR POLLUTION

**Comment Summary:** Commenters mentioned how noise, light, and air pollution will affect the health, safety, and local aesthetic of the surrounding community.

**DMLW Response:** Comments Noted.

*Noise Pollution:* Noise levels based on the equipment proposed to be used (LF90 Surface Drilling Core Rig or Similar) are in general operating at approximately 95dBA within 50 ft of the machine. Sound dissipates based on distance away from the source. At the decibel levels of this equipment, the distance from adjacent residential properties from proposed drilling locations, and the vegetation of the area does not create a safety hazard to the surrounding residential properties. Noise at a level that destroys the aesthetic of the area during operation is not within the scope of the decision. The area of operations is not governed by any local noise ordinances and cannot be stipulated to operate at only certain hours or within a certain decibel range. Determination of what constitutes a civil or ‘private’ nuisance under Alaska Law is also not within the Division’s purview, and pursuit of abatement of civil nuisances must be made through appropriate legal channels.

*Light Pollution:* In general, portable light plants are what companies use to provide illumination in worksites. These are generally located only while activities are going on when illumination outside of general daytime hours. The light produced by these light plants are the same as those that are produced from a streetlight. The amount of light produced does not pose any health or safety concerns and aesthetics are outside the scope of this decision.

*Air Pollution:* Air quality is regulated by the Department of Environmental Conservation (DEC) and outside the scope of this decision. Required by stipulation Sec. 14 Other Permits,<sup>12</sup> the applicant must follow all laws and regulations that this Approved Plan of Operations does not cover. If DEC determines that the activities require permits, then the applicant cannot conduct operations until it is fully compliant by obtaining said authorization.

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<sup>12</sup> Sec 14. OTHER PERMITS: Be advised that issuance of this authorization does not relieve the applicant of the responsibility of securing other permits required by Federal, State, or local authorities. Neither does this approval constitute certification of any property right nor land status claimed by the applicant.

## ISSUE TOPIC: ESTER DOME RECREATIONAL TRAIL SYSTEM IMPACTS

**Comment Summary:** Commenters were concerned that the Ester Dome Single Track trail network would be adversely affected by the operations.

**DMLW Response:** Comment Noted. The department has reviewed the route of the Ester Dome Single Track. The vast majority of the trail system is located outside of the proposed project area. There is a small portion of the outer trail that passes through northeastern and northwestern corners of the claim block. The trail system is completely north of Happy Creek while the proposed location of the work is south of Happy Creek<sup>13</sup>. There are no adverse effects to the single track trail from the proposed activities.

## ISSUE TOPIC: RECLAMATION STANDARDS AND SITE INSPECTIONS

**Comment Summary:** Commenters stated how reclamation measures described in the application are insufficient.

**DMLW Response:** Comment Noted. The Division reviewed the proposed reclamation measures included in the APMA and Plan of Operations, including the drill site pad and exploration trail closure work. These measures meet or exceed the State of Alaska's Mine Reclamation performance standards under AS 27.19.020 and 11 AAC 97.200 and are authorized under the APMA F20252961 Reclamation Plan Approval, which also includes surface exploratory drilling operations. The APMA (which includes both the information for the Plan of Operations as well as the Reclamation Plan) described to the Division how the operation will be conducted in a manner that prevents unnecessary and undue degradation of land and water resources along with reclamation measures that will leave the site in a stable condition<sup>14</sup> as required by law. The

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<sup>13</sup> Figure 4 Exploration Activities Map, Application Pg. 27

<sup>14</sup> 11 AAC 97.200(a)(1) For the purposes of AS 27.19.100 (6) and this section, a stable condition that "allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes" means a condition that can reasonably be expected to return waterborne soil erosion to pre-mining levels within one year after the reclamation is completed, and that can reasonably be expected to achieve revegetation, where feasible, within five years after the reclamation is completed, without the need for fertilization or reseeding. If rehabilitation of a mined site to this standard is not feasible because the surface materials on the mined site have low natural fertility or the site lacks a natural seed source, the department recommends that the miner fertilize and reseed or replant the site with native vegetation to protect against soil erosion; however, AS 27.19 does not require the miner to do so. Rehabilitation to allow for

Division also finds it pertinent to advise that restoration of the microtopography is not required to meet the stable condition requirement under the performance standards described in 11 AAC 97.200(b) and such a requirement to do so would be arbitrarily prescriptive.

## ISSUE TOPIC: ALLEGATIONS ISSUES OF NON-COMPLIANCE

**Comment Summary:** Commenters stated that previous reclamation performed by Felix Gold Operations Inc. was inadequate and has a history of non-compliance that should require a denial of the permit.

**DMLW Response:** Comment Noted. The Department does not have any records that relate to noncompliance or reclamation issues with regards to Felix Gold Operations Inc.

## ISSUE TOPIC: BONDING

**Comment Summary:** Commenters expressed concerns about the size and efficacy of the Statewide Reclamation Bonding Pool as an adequate mechanism to perform reclamation if default were to occur.

**DMLW Response:** Comment Noted. Felix Gold Operations Inc. is participating in the State of Alaska Mine Reclamation Bond Pool established by the Alaska Legislature in AS 27.19.040(b), which is administered by the Department of Natural Resources, Division of Mining, Land & Water. The bond pool is a program where the overall mining industry's payments along with compounding interest have been contributing to an increased account corpus since 1992. These funds<sup>15</sup> are available to DMLW after an administrative process should the operator default on their reclamation obligation. Felix Gold Operations, Inc., is also liable to the state in a civil action for the full amount of reclamation and administrative costs incurred upon a violation and default.

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the reestablishment of renewable resources is not required if that reestablishment would be inconsistent with an alternate post-mining land use approved under AS 27.19.030 (b) on state, federal, or municipal land, or with the post-mining land use intended by the landowner on private land.

<sup>15</sup> The full equity balance (immediately available to the Department) of the bond pool is over 3 million dollars. This, and any of the miner's refundable deposits into the bond pool may be used by the Department to conduct reclamation upon bond forfeiture.

The Division, including the Authorized Officer who along with other professional technical review staff are subject matter experts in reclamation and closure and considered the proposed reclamation plan and overall project activities. Due to the limited scope and surface disturbance acreage, along with the easy access to the project site and minimal excavation dirt work required for the project, the Division has determined a reclamation cost estimate is not needed. The Division has a rigorous oversight and administrative program to ensure that the Bond Pool is not over leveraged, as required by AS 27.19.040(b), which requires the Division to consider reclamation costs in relation to the size of the bonding pool. In the unlikely event of default, an operation in the bonding pool which necessitates expenditures that reduce the equity balance. The Division's adaptive management strategy allows for the ability to refuse operations access to the bond pool due to their projected reclamation costs<sup>16</sup>.

## ISSUE TOPIC: IMPACTS TO THE EQUINOX MARATHON

**Comment Summary:** Commenters illustrated general concern about the impacts to the equinox marathon route and general concerns about safety during and lead up to the race.

**DMLW Response:** Comment Noted. As described in the trails topic above, the project activities are confined to the south side of Happy Creek. While the equinox trail does utilize parts of the Ester Dome Single Track Trail, the portions of the trail as stated before are all north of Happy creek and have no activities that will interfere with the race. With regards to safety concerns during the race. The route is along DOT maintained roads and no activities along the route are proposed. The company is required to abide by all closures during the race.

## ISSUE TOPIC: CONTAMINATION OF GROUND WATER, SURFACE WATER, AND CHANGES IN THE WATER TABLE DEPTH

**Comment Summary:** Commenters stated that TWUA F2025-042 could potentially reduce the availability of water in the area's aquifer for consumption as well as the projects potential to cause contamination of the aquifer with heavy metals.

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<sup>16</sup> Thus, would be required to provide Individual Financial Assurance, for example in the form of a surety bond or other bonding instrument allowed by law.

**DMLW Response:** Comment Noted. Upon reviewing the areas' drill logs for water wells, most local wells are drilled through discontinuous silty permafrost into a water-bearing bedrock aquifer. Some surface water may contribute to recharging the aquifer, but this process is extremely slow. The area of recharge for the local wells is vast and includes other drainages. Based on stratigraphy and a large recharge area, it is inferred that no adverse effects will come from removing 20,000 gallons per day from Happy Creek and the area pond. In addition, the project proposes to withdraw water from a surface source. No known connectivity exists between the surface and the aquifer. This project is not expected to contaminate the existing aquifer due to the geological barriers. Agency notice was sent out to the Alaska Department of Environmental Conservation for TWUA F2025-042. The Alaska Department of Environmental Conservation requested that the applicant adhere to the Recommendation for General Project Activities near a Public Water System source<sup>17</sup>.

## ISSUE TOPIC: HANDLING OF FOREST DEBRIS AND EXPLORATION TRAIL CONSTRUCTION

**Comment Summary:** Commenters are concerned at forest debris block trails and making them hazardous or impassable.

**DMLW Response:** Comment Noted. The concern of blocking trails or making travel on the trails impassable is mitigated by a Special Stipulation to the permit<sup>18</sup>. The stipulations require that any fallen trees and forest debris to be left off the trails when clearing occurs. Additionally, any rutting of trails must be smoothed out prior to the end of each mining season or when the trail will no longer be used; whichever is sooner.

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<sup>17</sup> <https://dec.alaska.gov/media/23023/dec-eh-dw-recommendations-for-general-project-activities-near-a-pws-source.pdf>

<sup>18</sup> Special Stipulation: Forest Debris: When using, creating, or maintaining trails, trees and large forest debris must be cleared or fallen in a way that does not obstruct trail use or create a hazard to the public. Trail Reclamation: Any rutting of trails must be smoothed out prior to the end of each mining season or when the trail will no longer be used; whichever is sooner.



## ISSUE TOPIC: REQUIREMENT OF USACE 404 PERMITTING

**Comment Summary:** Commenters stated how no permits should be issued because activities require Section 404 wetlands permits and the applicant misrepresented the amount of wetlands to be disturbed in the application.

**DMLW Response:** Comment Noted. As a general stipulation of the issued Plan of Operations Approval, operations under the approval “shall be conducted in conformance with applicable Federal, State, and local laws and regulations now, hereafter, in effect during the life of the approval”,<sup>19</sup> which includes the Clean Water Act.

The US Army Corps of Engineers is a participating agency in the Application for Permits to Mine in Alaska (APMA) application program and the APMA serves as a pre-construction notification for several Nationwide and Regional General Permits, as well as a supplemental document to support the separate application for Individual Permits, all under the Clean Water Act Section 404.

APMA F20252961 was provided to the US Army Corps of Engineers designated APMA program contact as an agency review distribution via email on April 24, 2025 and was also uploaded to the Interagency APMA Distribution Portal that all of our agency partners, USACE included, utilize to access APMAAs. The USACE was offered the opportunity to provide comment as a part of the agency notice period and provided no comments or concerns about the application to the Division. Accordingly, the statement that “As of April 23rd, 2024, USACE has not been notified of this proposed plan of operations” is incorrect. The Division is satisfied that no significant, adverse impacts to wetlands will result from the permitted activities. The USACE administers the permits for the Clean Water Act. If at any time permits are required in accordance with the Clean Water Act, the USACE will work directly with the applicant to permit the activities. Compliance with the Clean Water Act is outside the scope of this permit.

## ISSUE TOPIC: MIGRATORY BIRD TREATY ACT COMPLIANCE

**Comment Summary:** Commenters asked if the activities are in compliance with the Migratory Bird Treaty Act (MBTA).

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<sup>19</sup> Sec 14. OTHER PERMITS: Be advised that issuance of this authorization does not relieve the applicant of the responsibility of securing other permits required by Federal, State, or local authorities. Neither does this approval constitute certification of any property right nor land status claimed by the applicant.

**DMLW Response:** Comment Noted. The MBTA is enforced by the United States Fish and Wildlife Service (USFWS). USFWS is a participating agency in the Application for Permits to Mine in Alaska (APMA) application program. APMA F20252961 was provided to the USFWS designated APMA program contact as an agency review distribution via email on April 24, 2025 and was also uploaded to the Interagency APMA Distribution Portal that all of our agency partners, USFWS included, utilize to access APMAs. The USFWS was offered the opportunity to provide comment as a part of the agency notice period and provided no comments or concerns about the application to the Division. The Division is satisfied that no significant, adverse impacts to migratory birds will result from the permitted activities. If at any time permits are required in accordance with the MBTA, those applications are submitted directly to the USFWS and are outside the scope of this permit.

## ISSUE TOPIC: STORMWATER POLLUTION PREVENTION PLAN (SWPPP) PROTOCOLS

**Comment Summary:** Commenter were concerned that Felix Gold Operations Inc. did not provide SWPPP protocols in the application and should be required to prior to the issuance of any permit.

**DMLW Response:** Comment Noted. SWPPP permitting is conducted through the Department of Environmental Conservation (DEC). If a SWPPP is required to perform activities a separate application is required to be submitted to DEC. It is outside the scope of this decision to require SWPPP permit be issued prior to the issuance of this permit. If a permit is required, Section 14 of the Plan of Operations Approval Other Permits applies<sup>20</sup>.

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<sup>20</sup> Sec 14. OTHER PERMITS: Be advised that issuance of this authorization does not relieve the applicant of the responsibility of securing other permits required by Federal, State, or local authorities. Neither does this approval constitute certification of any property right nor land status claimed by the applicant.

## ISSUE TOPIC: EFFECTS ON GOLDEN VALLEY ELECTRIC ASSOCIATION RIGHT-AWAY AND ACCESS

**Comment Summary:** Commenters expressed concerns of operation and travel along the GVEA powerline corridor and its impacts.

**DMLW Response:** Comment Noted. Felix Gold Operations Inc. provided Golden Valley Electric Association (GVEA) correspondence with regards to the proposed activities. The Division was provided concurrence and protocols that the operation would not affect GVEA activities and had no objections to the activities. Given the concurrence from GVEA on the activities the Division is satisfied that no significant, adverse impacts will result from the permitted activities.

## ISSUE TOPIC: DRILLING EQUIPMENT USE

**Comment Summary:** Commenters had concerns about the vagueness of how many drill holes is going to be drilled by either a Diamond Core or RC Drill.

**DMLW Response:** Comment Noted. The application provided a broad description of activities that could be conducted over the lifetime of the permit in the project area. The maximum authorized holes are 100 regardless of the type of equipment being used. Special stipulations<sup>21</sup> has been added to the permit to track and maintain that the activities proposed are within the scope of the permit.

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<sup>21</sup> Special Stipulation: File Annual Work Plan; Each calendar year of the permit, the applicant shall file a work plan detailing the number, type and location of proposed activities under this authorization to be conducted for that exploration year, including any repairs and details of the repair plans. The Annual Work Plan is due by March 31 of each year.

## ISSUE TOPIC: CONSTRUCTION OF DRILL PADS AND SUBSIDENCE OF THE SURFACE

**Comment Summary:** Commenters stated concerns about the size and number of drill pads proposed in the application. This includes areas where forest debris is removed and how clearing will impact surface subsidence caused by degradation of permafrost. A specific example given in comments was when a fire in 2023 burned in mining claim Grant 17 and the area of the fire is highly subsided now.

**DMLW Response:** Comment Noted. Drill pad construction is short term. Reclamation of the drill pads is set to be completed by the end of drilling operations to include placement of vegetative media and surface contouring.

Surface subsidence in relation to permafrost degradation is a natural process occurring throughout the interior of Alaska. In general, short-term removal of vegetative media and then being recovered has minimal long-term impacts. Examples given from wildfires, as those described in the comments, do not allow for vegetative media to be recovered in a timely manner unlike the proposed activities. Wildfire destroys all the vegetative media and recovery of such media is a multiple year process. In the multiple year process of vegetative media recovery, thermal degradation impact is distributed throughout large horizontal surface areas and deep, vertical thermal warming within mineral soils that contain ice. This combination creates broad, area wide subsidence. The impacts to the vegetative mat in the proposed activities are limited to less than a single season, small surface areas, and limited vertical thermal impacts resulting in relatively low instability within the frozen soils.

In addition, the project area is on a south facing slope with a mix of birch, alder, white and black spruce. Areas with mixed forests are also less likely to be ice rich. Most permafrost in the Fairbanks area occurs in valleys, north facing slopes in areas dominated by black spruce and doesn't reflect on the vegetative nature or location of the project area. The project area may have isolated pockets of ice rich soils that have some subsidence associated with drill pad clearing activities. However, this is expected to be minimal and have little impact on the area.

## ISSUE TOPIC: INCREASED WILDFIRE RISKS

**Comment Summary:** Commenters are alleging that the project activity greatly increases the risk of wildfires.

**DMLW Response:** Comment Noted. The location of the project is designated as a critical response area for the State of Alaska Department of Forestry. As such, any type of smoke alert is given #1 priority for fire suppression. In addition, the creation and clearing of trails in the project area allows for greater access and suppression abilities if wildfire were to start in the project area. Special stipulations have also been added to the permit<sup>22</sup> to be adhered to during operations in relation to wildfire risks during operations.

## ISSUE TOPIC: PROXIMITY OF DRILL LOCATION TO RESIDENCIAL LANDS

**Comment Summary:** Commenters stated concerns that the location of exploration drilling operation may occur close to residential lands including a commenter stating that drill pads will be put 200 yards from the property line.

**DMLW Response:** Comment Noted. The impact of land clearing and drilling within 200 yards of a property line has no direct effects on bordering non-state lands. Making pads, drilling and reclamation are allowable uses of state land according to the Eastern Tanana Area Plan. Additionally, the plan considers state lands are bordering zoned residential areas when defining classifications and determined that mining was a proper surface use of the state land where the project is proposed.

## ISSUE TOPIC: REQUIREMENT OF NEPA

**Comment Summary:** Commenters stated that prior to any permits being issued that a full Environmental Impact Study (EIS) be conducted.

**DMLW Response:** Comment Noted. An Environmental Impact Statement is a report mandated by the National Environmental Policy Act of 1969 (NEPA) to assess the potential impact of actions

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<sup>22</sup> Fire Prevention, Protection, and Liability: a. The applicant shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and shall assume full liability for any damages to state land resulting from the negligent use of fire.

“significantly affecting the quality of the human environment” for activities that involve a federal nexus. NEPA is a federal law that does not apply to the review, adjudication, and issuance of a state Plan of Operations Approval. Rather, in this case, the Department of Natural Resources was guided by the provisions provided in Article 8 (Natural Resources) of the Alaska Constitution, the Alaska Lands Act AS 38.05, and in accordance with the Eastern Tanana Area Plan management guidelines.

DMLW’s adjudication of the proposed activities has taken a careful and reasoned review of the potential environmental impacts of the proposed land use activities in accordance with state law, which included agency consultation listed in Section 8 of the memorandum of decision.

## ISSUE TOPIC: IMPACTS TO THE CRIPPLE CREEK RESTORATION PROJECT

**Comment Summary:** Commenters expressed concern about the potential impact of water taken from Happy Creek on the Cripple Creek Restoration Project.

**DMLW Response:** Comment Noted. The United States Fish and Wildlife Service (USFWS), in partnership with the Interior Alaska Land Trust, was the lead agency for the Cripple Creek Restoration Project. The USFWS was notified of this project via an agency review notice on April 25, 2025. As of September 16, 2025, USFW has not provided comments for this project. Happy Creek water contribution during spring will be negated by other drainages in the area.

## ISSUE TOPIC: EFFECT ON WATER RIGHTS WITH WATER WITHDRAWAL FROM HAPPY CREEK

**Comment Summary:** Commenters were concerned with the effect of water withdrawal from Happy Creek would have upon Water Right LAS 22865.

**DMLW Response:** Comment Noted. Consultation of Alaska Mapper indicates that the water right serialized as LAS 22865 is approximately 1.5 Miles from the proposed Happy Creek water take point. Happy Creek is a surface water source and has a negligible impact on subsurface aquifers. No conflict of prior appropriations is anticipated.